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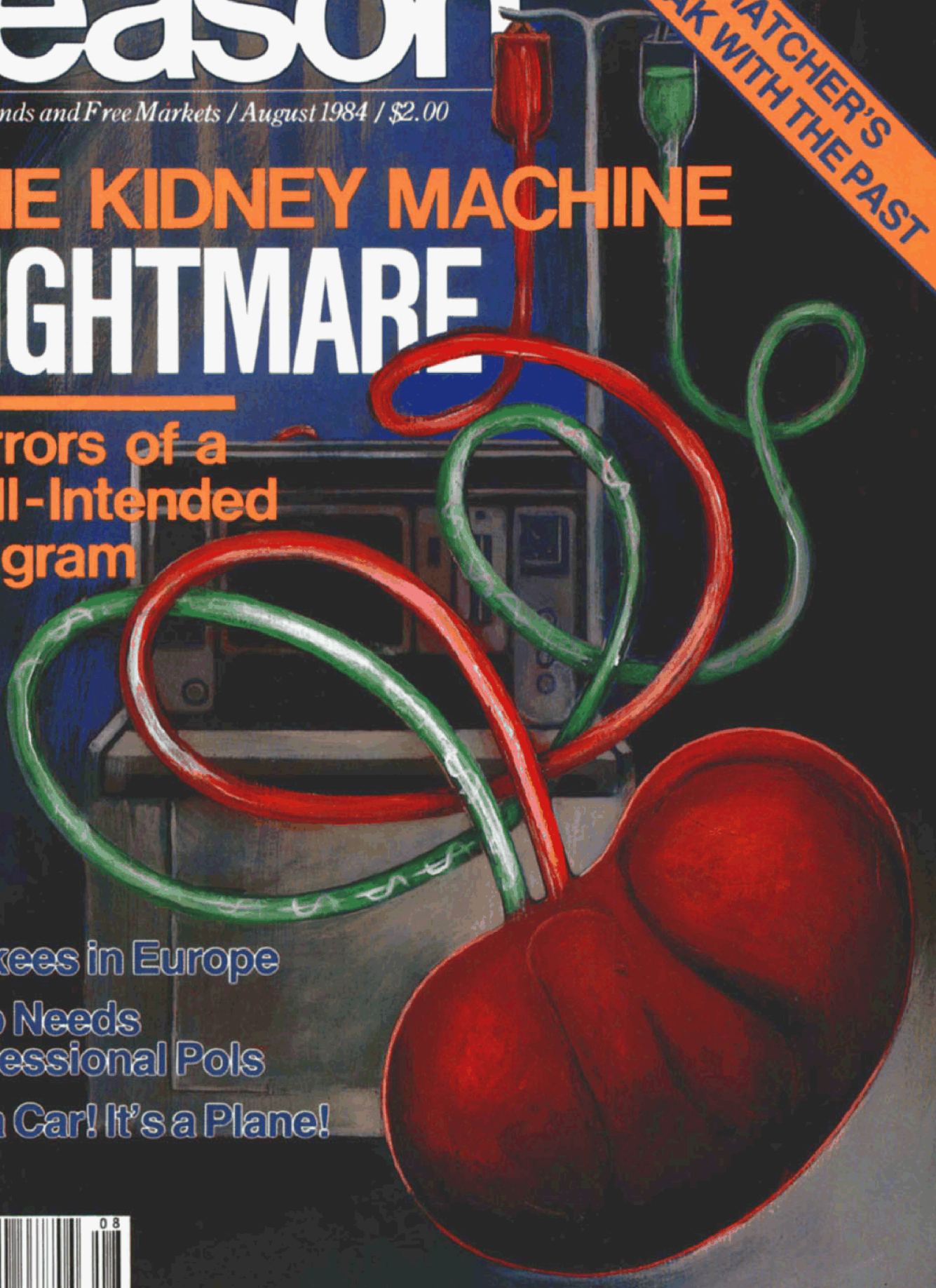

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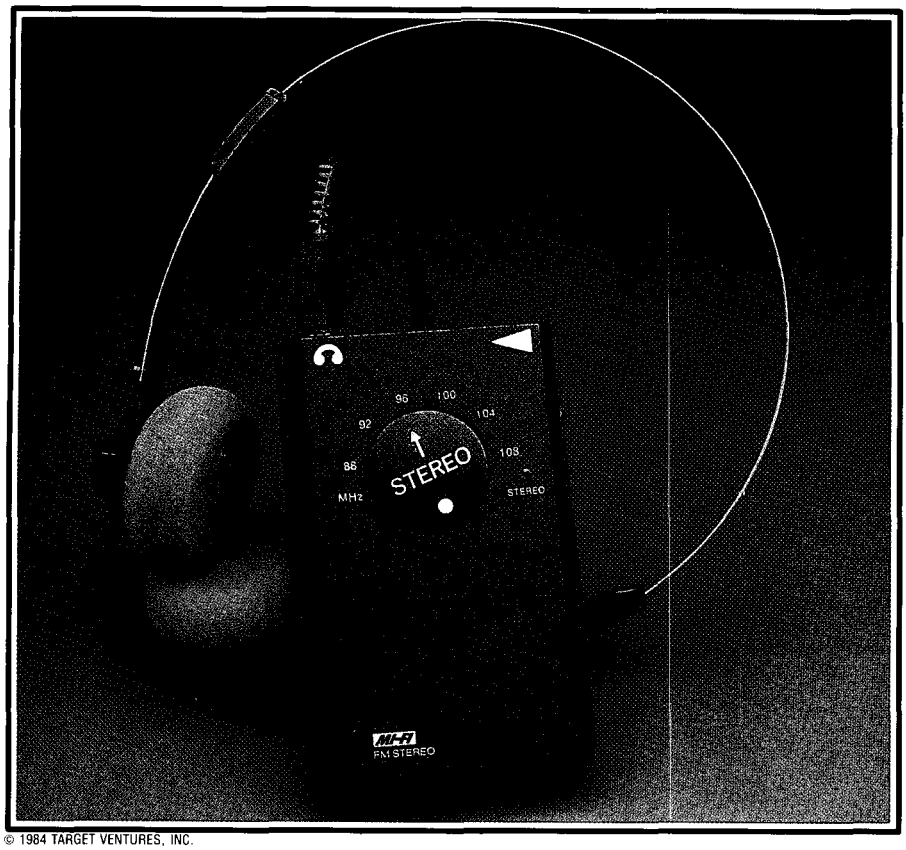

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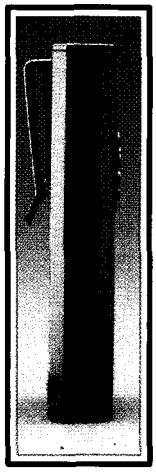

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AUGUST 1984/VOL. 16, NO. 3

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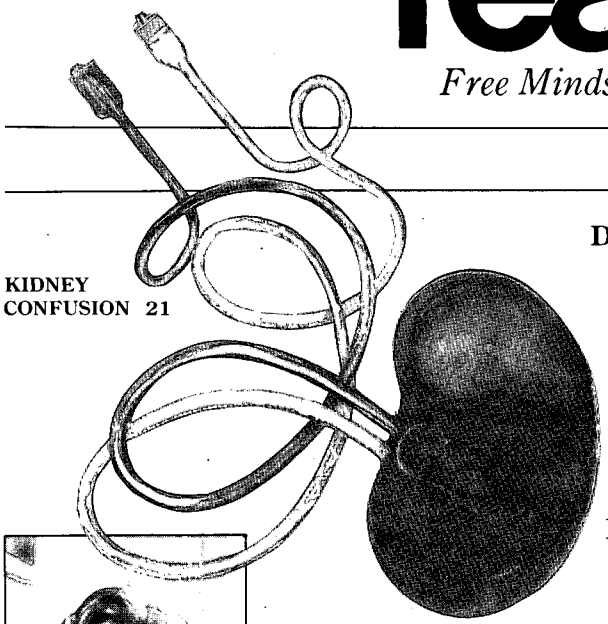
Free Minds and Free Markets



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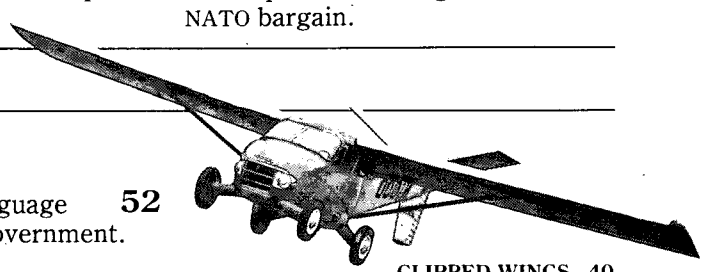

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NOTEs

This month's cover story on the federal government's kidney-treatment program is written by a former dialysis patient who had a successful kidney transplant several years ago. The idea for the story began with our Book Review Editor, Lynn Scarlett, when she saw a television panel discussion in which medical experts and policy analysts were lamenting the problems that have arisen under taxpayer funding of health care for the victims of kidney failure.

Lynn sniffed a government boondoggle at work and suspected that the panelists hadn't grasped the real problems involved. She suggested that we approach a friend of hers—a former kidney patient and a free-lance writer—to investigate. We did, he did, and the resulting story begins on page 21. He discovered a sad scene not only from the taxpayers' point of view but from kidney patients' as well.

A couple of REASON's investigative articles have been reprinted recently. The *Washington Times*'s new national edition has reprinted John Fund and Martin Wooster's exposé of the nondismantling of the Department of Education, "An Education in Empire Building," from our May issue. And *Human Events* has reprinted Jack Wheeler's April cover story, "Fighting the Soviet Imperialists: UNITA in Angola." Wheeler, whose second report in REASON on anti-Soviet guerrilla groups was last issue's cover story, is at work on a book about the significance of such groups, to be called *Pebbles in the Sling.*

—M. Z.

A new name appeared on REASON's masthead last issue: Becky Hitchcock, our new Circulation Director. For the first time in REASON's history, we have a full-time person in charge of things like making sure your issues get delivered properly, that bills and renewal notices go out on time, that all the lists that we rent for our direct-mail promotional efforts are delivered to the mailing house in the same format and on time, etc., etc. There are thousands of details like this that go on behind the scenes, to ensure good service to current and potential subscribers, and Becky comes to the job with years of direct experience in the business. Her addition to the staff will leave Rob McGee free to devote his full attention to advertising and single-copy sales, rather than having to do the circulation job as well.

Jeffrey Smith joined the Reason Foundation in June as a summer intern. He's dividing his time between developing a computer data base for the Foundation's Local Government Center and writing and research projects for REASON magazine. At the end of the summer, Jeffrey will return to the University of Washington in Seattle, to complete his last year of undergraduate work in economics and computer science.

Privatization of government services continues to gain visibility. During May I gave a lecture at Washington's Heritage Foundation on the potential of privatization to shrink the size of the federal government. While in the nation's capital, I met Jim Coyne, special assistant to the president for private-sector initiatives, and found him to be quite interested in privatization. I also addressed a luncheon seminar of about 40 staff members from the Office of Management and Budget, laying out the potential for privatization.

At the local-government level, the Reason Foundation's Local Government Center is much in demand as a source of information on privatization. In recent weeks LGC has assisted reporters from *Inc.*, *Venture*, and *U.S. News & World Report* with forthcoming stories on privatization. And we have received requests for assistance in identifying privatization opportunities from city officials in Houston, the chamber of commerce in Philadelphia, and a taxpayer organization in California's Placer County.

A new presentation of the case for ABM systems—both earth-based and space-based—has been written by Robert Jastrow. Dr. Jastrow has spent most of his career in the space program and was founder and director of NASA's Goddard Institute for Space Studies. I recently had the pleasure of dining with him in Chicago, and I'm quite impressed with his arguments. His recent *Commentary* article on strategic defense has been reprinted as a handsome booklet, "How to Make Nuclear Weapons Obsolete." It's available for $1.00 from Orwell Press, Committee for the Free World, 211 E. 51st St., New York, NY 10022.

—R.W.P.

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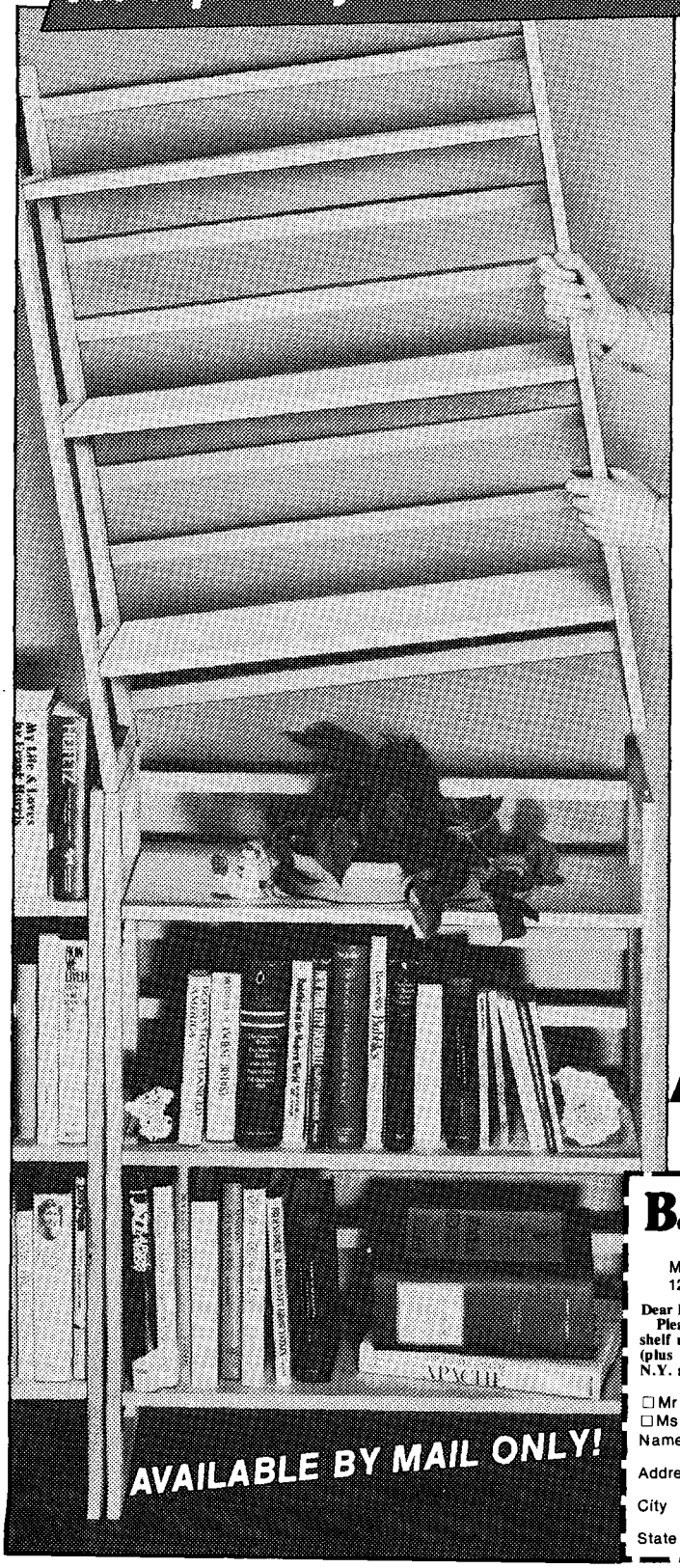

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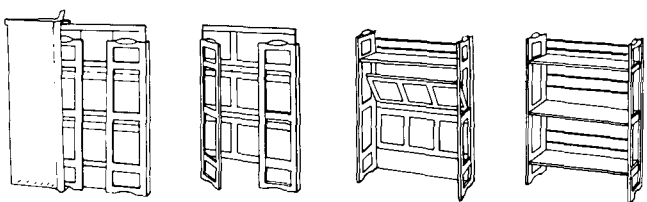

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EDITORIAL

Tibor R. Machan

Bully for the Boycott

I for one am thrilled by the decision of the Soviet Union and its satellite countries to absent themselves from the Olympics. Just think—the fear that athletes will defect upon encountering Southern California is greater in the Kremlin than the determination to score the usual political points by way of regimented athletics! Then there is the fear of defeat: former Soviet Olympic Committee psychologist Gregory Reiport, a 1977 defector, observed, "Russians cannot take chances to lose. They can't afford to be second."

Clearly, the "boycott" is a flop. The 142 free and semi-free countries that are sending teams constitute a record total. And what a refreshing precedent it sets to have an international event with widespread and diverse participation—but without granting implicit moral equality to the USSR and its colonies. If only a similar principle could be applied to such bodies as the United Nations.

In principle, of course, sports really ought to be apolitical. Sport is precisely for the hell of it. And even if this is just a remote ideal now, it is one of the more sensible ones around. But with the relentless efforts of the Soviets, following in the footsteps of their brethren the Nazis, the Olympic Games have for decades become politicized beyond tolerance to any genuine sports enthusiast. Sports should be pure indulgence, attracting us on the basis of a desire to excel at physical prowess, or at least to witness the display of such excellence.

Ideally, the Olympics is the vehicle for bringing together the world's *amateur* athletes, for all to discover and witness the best in sports. Granted, that is now out of the question. Few have enough leisure time to prepare for world-class competition, given the caliber of the athletes produced in part by the mixing of athletics with entertainment, with serious business, and mainly with nationalism.

But all that doesn't compare with what a shambles the Soviets and their puppets have made of sports. For these tyrants, world-class athletes function as gladiators in the global arena. The athletes, regardless of their politics or reactionary birth, are able to acquire exceptional status in society. (At least the Romans got a bit of hedonic joy from their gladiatorial sport, whereas for the Soviets it's all a matter of deadly serious state aggrandizement.)

As in the Third Reich, the Soviets use sports to display what the dictatorship *produces*—if nothing much good, at least top athletic performers! And to this end no expense is spared, no privilege withheld. Even the risk of widespread embarrassment from defections has thus far been accepted. Moreover, judging by what is now common knowledge about the East Germans, the Nazi experiments to produce superpeople are being reimplemented throughout the Soviet orbit.

Before the proliferation of defections by artists and athletes—both groups having been primary instruments of Soviet propaganda for the last 50 years—the Soviets would not have thought of withdrawing from the Games or threatening such action. It would have been a horrendous waste for them to do so. Promising fencers, swimmers, runners, water-polo players, and the rest all received the best possible treatment, as they largely still do, because their performances at international competitions could enhance the partial, askew, but vital image of the Soviet Union.

As I grew up in Hungary, several members of my own family were nationally ranked swimmers and fencers. All of them received special vacations throughout the year when preparation time for the big meets rolled around. For two- to five-month training periods, top athletes were exempted from school or job, justified by the overriding goal of showing the world what Communist Hungary could do—namely, win enough medals to rank 8th in world competition when the country's size might ordinarily suggest a ranking of 30th. (The luxury of socialism includes not having to worry about what really needs producing: the state commands production for image!)

For me, then, it will be a genuine pleasure not to have to witness millions of thoughtless people and the recklessly avaricious media partake of the sadistic display of such life and death struggle, as any Olympic Games with athletes from the Soviet bloc must inevitably be. Of course, there's nothing wrong with enjoying the Olympics—except when it is contaminated by the Kremlin's hidden geopolitical agenda.

More insidious than that is the Soviet bloc's encouragement of grotesque child abuse. Parents train their children for international sports from birth, just so they might gain an exceptional chance in their lives—something possible to the masses only if they manage to give the state intolerable "loyalty" and service. And the successful athletes do, of course, welcome their rare opportunity to escape from socialist paradise, if only for a few weeks now and then.

So in Eastern Europe and the Soviet Union, doing well at sports isn't just a matter of pride or even self-esteem. Nor is losing just a temporary disappointment. Rather, such is the stuff of great hope and desolation in many families.

With athletes sent by the Kremlin present at the Games, we don't witness sports. Rather, we are again thrown back to the era of the Roman empire "games," in which the only chance for survival and glory was to come out as a victorious gladiator.

Ironically, the Kremlin rightly tabbed President Reagan's expression of regret upon the Soviet's withdrawal as a case of grand hypocrisy. After Reagan was acute enough to designate the USSR an "evil empire," he should have *cheered* the Soviets' move and their implicit admission that their athletes might be tempted by the freedom of Southern California. He should have regretted only one loss: that of the few Soviet-bloc athletes who might have made their way to freedom during the Games. What's a clear gain for sports at the 1984 Games is a tragic loss for the few who might have escaped their captors.

Tibor R. Machan

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Letters

Affirmative Logic

Edith Efron's article ("Behind the Cancer Terror," May) claims that the proof of a negative is impossible in logic. Such a statement is wrong. More than 2,000 years ago the Greeks proved negative statements: Euclid proved that the number of prime numbers is *not* finite, and Pythagoras proved that the square root of two is *not* rational. As a matter of fact, if one could prove that a person can *not* prove a negative in logic, that proof, in itself, would be the proof of a negative.

Charles R. Burton
San Diego, CA

Senior Editor Machan replies: Negatives can be proven, of course, in several ways: by disproving the affirmative, by showing that the affirmative is without meaning, by showing that the affirmative is self-contradictory. What confuses many is that, usually, affirmative statements can be changed to negative ones (she is well/she is not ill) without much loss of meaning or precision. But in problematic, novel propositions—the ones that interest scientists—we are unable to prove a negative unless its corresponding affirmative is provided with some attempted justification. This is why in our courts of law, for instance, the prosecution has the onus of proof—to place on record an affirmative statement (x did y), which then may be challenged by the defense by showing it to be unfounded and thus disproving it. In science, too, unless a case is advanced *for* the existence of some property or condition or correlation, it is impossible to know what must be done to test the affirmative case; it might require canvassing the entire universe to make sure that one hasn't missed some possible (unstated by the affirmative side) interpretation of the proposition at issue. And in this sense—that is, without a case *for* the affirmative—it is indeed impossible to prove a negative.

Communicate with REASON. Box 40105, Santa Barbara, CA 93103. We appreciate receiving your letters typed double-space and limited to 200 words. Letters sent to REASON will be considered for publication (unless otherwise noted) and may be subject to abridgement or editorial comment.

Defense Dialogue

While I enjoyed Eric Mack's presentation of alternative national defense methods ("The Perils of Pacifism," Viewpoint, May), I believe Professor Mack is exactly wrong in making pacifism the antithetical equal to militarism as an "extreme" forcing mankind to "bow before evil."

Mack states tht pacifism is incoherent since the ideology "den(ies) that we could have a right to defend our lives and liberties." This is correct, but only if the professor limits such a defense to violent acts. This is precisely what the Reagan administration is doing in Central America, for example, when a far better way of ensuring democratic liberties there and protecting Americans here would be for the United States to pull its military and mercenary forces out of the region and allow the Contadora group to negotiate the pacification of Central America that they are now so close to achieving.

Dialogue may not be the only way to disarm our myriad enemies throughout the world, but I would wager that even Professor Mack would agree that far too much of our national security debate is taken with military "defense" rather than reestablishing a credible diplomatic offense. It is odd that he would feel compelled to misrepresent the very ideology whose goals he is, after all, aspiring toward in urging more responsible methods of national protection.

Alexander Reyes
Washington, DC

Mr. Mack replies: Alexander Reyes points out that defense in the sense of the responsive use of destructive force is not always necessary for, or well-suited to, securing rights. This is certainly true and deserves emphasis. Destructive force is only justified when no other means are available. Contrary to Reyes's reading, however, my remarks about strategic defense in no way imply approval of the current US military intervention in Central America. This intervention seems: (1) *not* directed against a threat to our rights; (2) likely to be counterproductive by its own lights; and (3) immorally supportive of various bands of thieves and murderers.

Counsel for Coors

I read with great interest Kelly Ross's article on Coors's battle with the Oregon legislature ("Brewed-Up Boycott," March), but I was surprised that Coors hasn't asked the courts for some help. The Oregon legislation places a serious burden on interstate commerce. In such cases courts are required to balance the effectiveness of the state statute in accomplishing valid state interests (such as health and safety) with the burden the statute places on interstate commerce. If the statute doesn't effectively promote those interests and yet burdens interstate commerce, the legislation must fail.

Further, the US Supreme Court has recently been backing away from allowing states the broad discretion with respect to liquor granted them under the Twenty-first Amendment when such latitude would infringe on other Constitutional guarantees. Coors also might argue that the legislation has nothing to do with the alcoholic nature of the beer but rather with the health of the public in general and, therefore, the Twenty-first Amendment does not apply.

From this it seems that Coors has a fighting chance to challenge this law and clear the way for fair competition. It's nice to know that there is some protection left from legislatures gone special-interest-happy.

Michele Berdinis
Berkeley, CA

Adding to the Formula Debate

I was sorry to see REASON quoting in Further & More (April) the *Wall Street Journal* op-ed piece by Harry Schwartz on the topic of infant formula and oral rehydration therapy. Mr. Schwartz has not discovered his opponents in a contradiction, as it is perfectly possible that the water in a Third World country might be too dangerous for routine use in infant formula, yet not so dangerous as to forbid its use in the emergency rehydration of a sick child. It is sad to see the *Journal* or REASON failing to understand such a simple point, and weakens an argument I otherwise agree with.

John Bishop
Nashua, NH

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Think it's easy to open a supermarket in New York City? Fourteen years ago, a city housing corporation found that the Pathmark chain was willing to provide 24-hour service and hire 200 local people—if it received a permit for 200 customer parking spaces. Nine years ago, the city's housing agency approved the plan. Four years ago, the Planning Commission approved the store while studies of the parking problem continued. Last year, the Environmental Quality Review Committee approved the parking, and the supermarket finally opened. Now the Planning Commission is worried about the reaction of other food stores to the new competition, and has delayed action on the parking spaces. The delay has already cost more than 90 jobs.

If hunters, fishers, plumbers, and doctors are required to be licensed by the state, why not bird watchers? That's the theory of Maryland Assemblyman Anthony DiPietro, who sponsored a bill requiring bird watchers to buy a $5 license. Some say the proposal will never get off the ground. "Do you charge $5 to watch cows?" asked Glenda Weber of the Chesapeake Audubon Society.

It really is 1984. A Memphis city- and county-workers' union made the usual demands for money, sick pay, vacations, etc., at contract renewal time—with one new twist. The union asked for a 35-cents-per-hour "punctuality pay." That's right—if the dedicated civil servants show up on time (a rarity), they'll get some extra loot. Next to come, of course, will be a demand for "performance pay"—bonuses for doing a job correctly. (To their credit, Memphis officials refused to give in on the punctuality pay issue.)

Police in San Jose, California, are running an escort service for downtown prostitutes. In a campaign to scare off the hookers' customers, uniformed officers stroll down the avenue with the streetwalkers seven days a week, 20 hours a day. "It's really hard for them to make a date while we're standing there listening," says a police official. Initially, the streetwalkers tolerated their uniformed chaperons. Then bizarre games of follow-the-leader sprang up, with hookers jogging, taking cab rides around the block, and climbing over fences in attempts to wear out the cops. Doesn't it make you feel safe, citizens of San Jose?

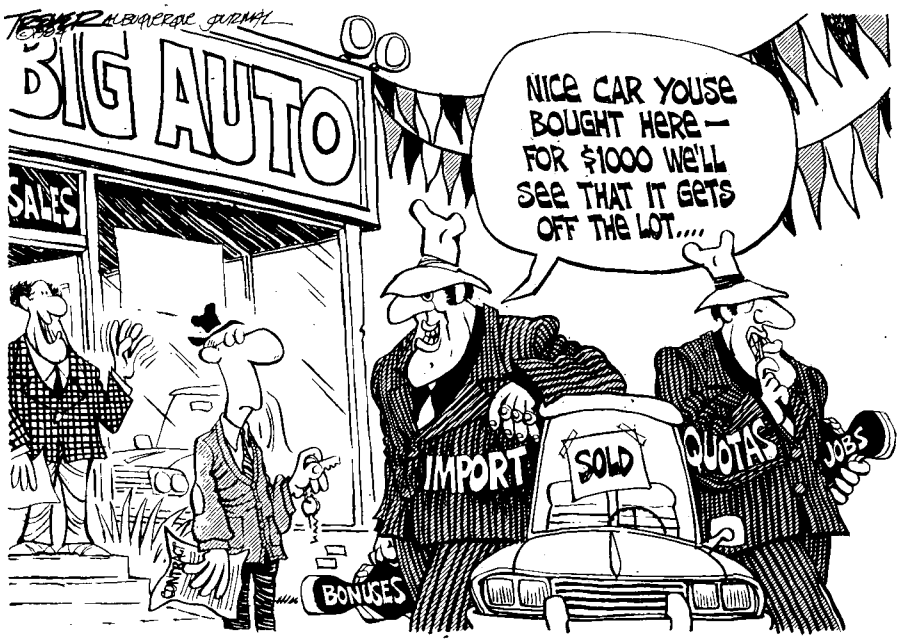
Genevieve Banks has a system to beat Atlantic City's casinos. First, she borrows a few thousand dollars from the gambling house, loses it all, and then sues the casino for turning her into a compulsive gambler. The New Jersey grandmother is among a number of losers who demand that casinos refund to them what they lost when gambling on credit. You see, their gambling addiction is a form of mental illness that makes the credit agreement invalid. The casinos argue that it's not their responsibility to second-guess the judgment of patrons. "You have people gambling for years and their pattern of credit is steady," says one casino attorney. "All of a sudden, they say they have this gambling problem." But with today's judicial system, Genevieve has better than even odds of turning the tables on the casinos.

Government subsidies to the arts took a ridiculous turn when a New York City judge ruled that the new owners of a building must allow artist Robert Newmann to finish the mural he's sandblasting on the wall of the Palladium Theater. The new owners had other plans for *their* wall, but the judge ruled that by telling Newmann to beat it, the owners were violating a law designed to protect works of art. Artistic license 1, property rights 0.

A Youngstown, Ohio, nursing home is suing a union because it decided *not* to strike. When contract talks broke down, the union gave the required 10-day notice for a strike. The nursing home immediately recruited and trained 47 people to fill the slots—at a cost of about $15,000. On the day the strike was to begin, the new employees showed up for work—along with the "striking" workers. The home had to pay two staffs for about a week. So far, no contract has been approved and the union people say another strike threat is possible. But do they really mean it?

The Occupational Safety and Health Administration doesn't see the humor in a new home video game called Hard Hat Mack. Mack is a blip described as a bona-fide working class hero. He strives to erect a high-rise building while another blip—an OSHA representative—chases after Mack. If the OSHA blip, which sports a crew-cut, a clipboard, and no sense of humor, catches Mack, Mack dies. OSHA has protested, but the president of Electronic Arts, the manufacturer, says the game "simply satirizes what can happen when you're building a building."

—MARK EDWARD CRANE



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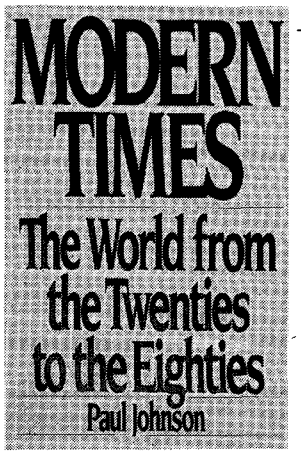

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How do you score on men and events?

Fill in the blanks with the people Paul Johnson is referring to:

"The _____ invasion [of Washington], one visiting statesman observed, was 'like watching the Borgia brothers take over a respectable north Italian town'." (Page 614)

"In the atomic field Soviet agents included Julius and Ethel Rosenberg. Morton Sobell, David Greenglass, Harry Gold, _____ (alias Alexander Stevens), to whom Whittaker Chambers acted as courier, and Jacob Golos, as well as Klaus Fuchs, who had been cleared by British security." (Page 458)

"Yet _____ was not a statist. He said he was against any attempt 'to smuggle fascism into America through the back door'. On many issues he was a liberal....He did not make anti-Semitic jokes, like Woodrow Wilson and his wife or Franklin Roosevelt. To a very wide spectrum of educated American opinion, he was the leading American public man..." (Page 243)

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Paul Craig Roberts, a former policy advisor in the Reagan administration, devoted a recent *Business Week* column to pointing out the significance of the Treasury study. "The study," Roberts reported, "finds that government spending crowds out the private sector regardless of whether the spending is covered by taxing or borrowing." And the conclusion, he noted, is "that the only certain way to curtail crowding out is to curtail government spending." Indeed, the evidence indicates that "the depressing effects of higher taxes on economic growth would widen the deficit" instead of improving the situation.

Roberts also cited another recent study, by University of Chicago economist Roger Kormendi, that supports the Treasury study's conclusions. Published in the December issue of the prestigious *American Economic Review*, Kormendi's study "finds that government spending and transfer payments result in lower private spending and reduced economic growth," Roberts reported. So "to respond to a budget deficit by raising taxes," Roberts observed, "does nothing to reduce the real problem—the spending itself—but does reduce private savings further."

The significance of the point Roberts and others are trying to convey will surely be lost on—or ignored by—a good number of our public servants. But at least the data are out there and being talked about—and eventually, perhaps, will be reckoned with.

SPELLING RELIEF PRIVATELY

It's no secret that many government foreign-aid programs for the Third World do more harm than good. The aid ordinarily comes with political strings attached, it is frequently diverted to repressive local elites, and it is often ill adapted to the recipient nation's culture and economy. It's no wonder that even left-oriented analysts such as Frances Moore Lappé have added their voices to those of such free-market analysts as P. T. Bauer in calling for an end to foreign aid flowing from Western governments to less-developed countries.

But there is an alternative that has been able to avoid the pitfalls of government aid—private foreign-aid organizations. According to a recent *New York Times* article, there are currently at least 500 nonprofit organizations involved in development assistance for other countries. Because they are relatively free of government constraints, these private voluntary organizations, or PVOs, can be innovative in ways that government programs can't—and they can do it with far less money.

One such PVO described by the *Times* is Partners of the Americas. Created by the government in 1964 but switched to the private sector in 1970, it fosters partnerships between citizen groups in 46 states in the United States and 28 Latin American and Caribbean countries.

For example, the Utah-Bolivia partnership has built 117 village schools in an Andean plateau, thanks to the labor of Bolivian villagers and a fundraising campaign by fifth- and sixth-graders in Utah. The Vermont-Honduras partnership is teaching 15 Honduran subsistence farmers about contouring, crop rotation, organic fertilizers, and other simple technologies, with each of the Honduran farmers promising to teach the techniques to four neighbors. And the Wisconsin-Nicaragua partnership is sending medical supplies to Nicaragua

PLANT CLOSINGS: PUBLIC OR PRIVATE CHOICES?

Richard B. McKenzie
Editor

As the recovery affects different regions unevenly, laws to restrict plant closings and relocations are being considered in Congress and many state legislatures. In this collection of essays, editor Richard McKenzie of Clemson University and other scholars look at the impact of plant closing laws on employment. Such distinguished scholars and policy makers as Charles L. Schultze, James C. Miller III, and William H. Branson broaden the discussion to the overall subject of industrial policy. This book is a vital part of the debate over industrial policy and plant closings. *c. 200 pp. $7.95*

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and sponsoring a food-preservation project that uses low-cost solar dryers.

All told, Partners of the Americas is sponsoring some 1,300 projects annually. In contrast to the lavish appropriations distributed by government bureaucracies, most of the Partners projects operate on grants of $5,000 or less.

PVOs are often able to work in areas where the US government is not welcome. Joseph Curtin of Catholic Relief Services, which operates in Lebanon, told the *Times*: "As a foreign private organization, Catholic Relief Services can be completely neutral, serving everyone, both Christians and Moslems, and accepted by all. Furthermore, we can provide an American face other than that of the U.S. military and political presence."

In some respects, however, the relationship between PVOs and the government has become uncomfortably close. Because of the PVOs' successes in getting assistance to people who need it most, Congress has in effect contracted out foreign-aid programs for nations such as Haiti and Zaire, channeling aid funds through PVOs. And 1983 reports indicate that 167 PVOs registered with the government's Agency for International Development (AID) were receiving $731 million worth of government support, compared to a little over $1 billion in private contributions.

With extensive reliance on government money, the PVOs face the danger of becoming an appendage of the government's foreign-aid establishment. But so far, the private organizations have an impressive record of independence and accomplishment. Moreover, they provide a valuable lesson in the advantages of voluntary over government-run charity.

PRESCRIPTIONS FOR HEALTHIER MARKETS

Not all ads are created equal. For years, the federal Food and Drug Administration (FDA) has required that prescription-drug advertisements (unlike advertisements for aspirin, cookies, or parachutes) must include extensive warnings about any possible side effects. Since nearly every drug has side effects, and since listing side effects for even the most useful drugs could well take up a magazine page or 10 minutes of air time, there has been almost no such advertising aimed at consumers (as opposed to extensive, detailed ads aimed at doctors). Now that may be changing.

The changes are coming about because of old loopholes in FDA rules. An ad can circumvent the requirement to list side effects if it doesn't mention a specific drug by name or if it doesn't give any information about what the drug does.

As narrow as those loopholes may be, a handful of pharmaceutical firms now are creatively taking advantage of them. *Business Week* reported in May that Pfizer Pharmaceuticals, which manufactures the diabetes treatment Diabinese, has been running television ads suggesting the wisdom of being tested for diabetes. There is no mention of Diabinese in the ads, but since the commercials started running in 1983, it's estimated that Diabinese sales have gone up by 15.4 percent. Meanwhile, Boots Pharmaceuticals has offered a $1.50 coupon for an antiarthritic drug and, in Tampa, has advertised its relatively low price but not what the drug is for. And Ciba-Geigy has applied to the FDA for permission to advertise an antihypertensive drug.

Interestingly enough, the impetus for

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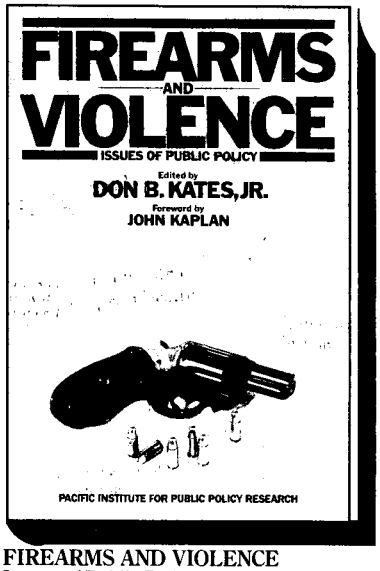

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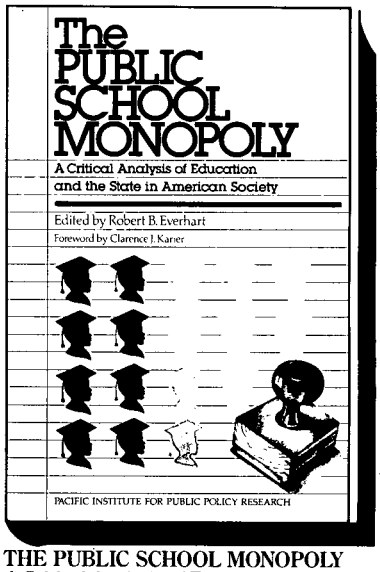

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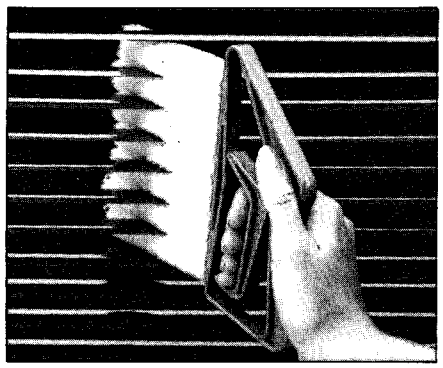

Now a California designer has finally solved the problem of how to clean venetian blinds. This tool has 7 roller fingers, 4" long and covered with a synthetic lambswool that picks up and holds dust and dirt. Pull the trigger and the fingers spread enough to slip over the blind slats (6 mini-blind slats or 3 conventional 2" slats). Release the trigger and the slats are held firmly between the cleaning rollers. Then move the cleaner back and forth along the blind, release and grip the next set of slats. When soiled, the cleaning rollers can be removed and washed. These revolutionary blind cleaning tools cost **$9.00** ($1.95) #A787. Two for **$17.00** ($1.95) #A7872.

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Simple Green is so varied that it replaces about $85 worth of specialized cleaners. Simple Green is an oven cleaner. Bathroom cleaner. Window cleaner. Floor cleaner. Stain remover. Laundry pre-soak. Upholstery cleaner. Engine cleaner. Simple Green is non-abrasive, non-caustic, low-phosphate and biodegradable. It has no bleach, ammonia or petroleum. It is approved by U.S.D.A. It was originally invented to remove stains from coffeeroasting equipment. Simple Green worked so well it was soon being used generally in the restaurant industry. Then in car washes. Then hospitals and airlines. Technically, Simple Green is a blend of synthetic penetrants that emulsify and suspend oil for cold-water rinse. It can be used on anything you use cold water on. No scrubbing required. We can send two 16 oz. spray bottles of Simple Green for **$9.00** ($2.95) #A698; two 16 oz. bottles plus a natural ocean sponge for **$12.00** ($2.95) #A828 or one gallon plus an ocean sponge for **$21.00** ($3.95) #A827.

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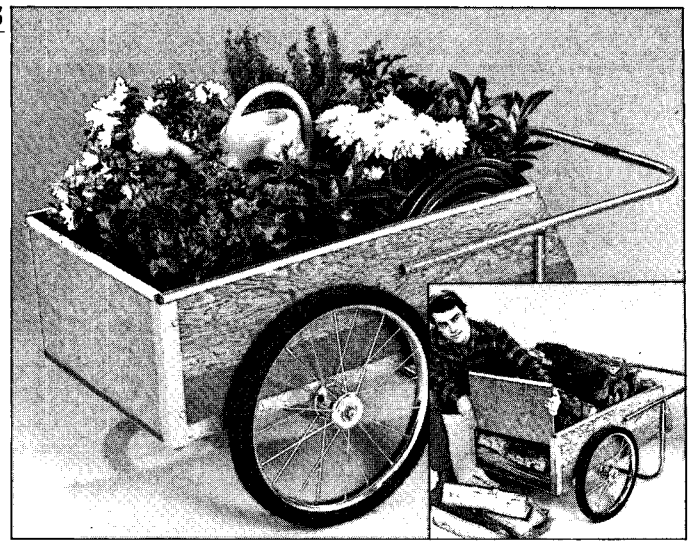

Big wheels. Two of them. It seems painfully obvious once you think about it. But why were we ever stuck with that precarious, difficult-to-balance wheelbarrow in the first place? The 2-wheeled garden cart lets you move larger loads with more ease, control and safety than you believed possible. You can pull instead of push — which means less strain — and you can even guide it with one hand. Easier to load because you can tip it up on its front end and scoop heavy objects in instead of having to lift them up. The Big Wheeler Cart holds 7 cubic feet or 300 lbs., provides a removable front panel for easy dumping. Use it for everything from leaves to firewood, including transport of large unwieldy objects like trash cans or picnic tables. The Big Wheeler is made of high-grade exterior plywood that has been soaked in oil and stain for an all-weather finish, welded steel angle iron frame, steel leg stand, galvanized steel handle positioned for comfortable lift. The 20" wheels, with special wide hubs and steel ball-bearings, are four times stronger than bicycle wheels. 1-year warranty. **$139.00** ($19.95) #A1119. A Bigger Wheeler — with 400 lb., 13½ cubic foot capacity and 26" wheels — costs **$190.00** ($29.95) #A1120.

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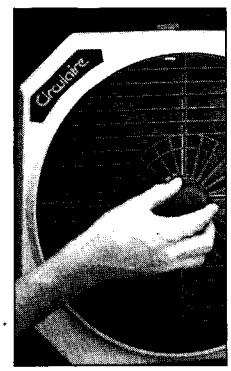
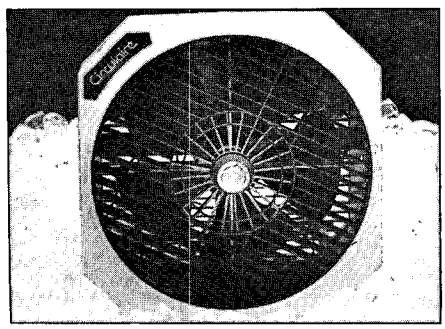


All fans claim to circulate the air, but this is the only one that circulates air in all directions at once, wall to wall, floor to ceiling. As the fan operates, a unique rotating louver on the face directs the air flow through a 360° sweep so it is not blasting out in a single current. Louver rotation speed can be adjusted or the louver locked in position to give the directional air flow of a conventional fan. The 3-speed Circulaire fan is quiet, lightweight (under 9 lbs.), fully portable and energy-efficient. This is truly a year-round fan, creating a cooling breeze in the summertime, circulating warm air in every direction in winter. It measures 16⅝" x 9⅛" x 17½", carries a 1-year warranty, and costs **$42.00** ($5.95) #A1060.



FRESH AIR MACHINES

Air pollution doesn't politely stop at the front door. The Bionaire 500 is like moving a mountain breeze indoors. It removes 99% of all particulate pollutants from the air — goodbye to soot, dust, animal dander, pollen, cigarette smoke, smog, molds and fungi. The newly developed electret filter removes particles as small as 1/10,000 the thickness of a human hair. The Bionaire 500 cleans 45 cubic feet of air a minute, the average room three times an hour. It includes a switchable ion generator — negative ions are well known for their presumed psychological good effects, creating a sense of well-being. A switchable fragrance dispenser allows

you to add a fresh scent to the air when you wish. The Bionaire 500 measures 11" x 7" x 5", uses only 45 watts energy, comes in a handsomely styled brushed aluminum case and costs **$150.00** ($9.95) #A1227. A larger model 1000 has three speeds instead of two and cleans 118 CFM of air. This unit measures 14" x 8" x 8½" with a life-time steel housing. The Bionaire 1000 costs **$289.00** ($12.95) #A1229. An even larger model 2001, not shown, cleans 300 CFM of air and costs **$399.00** ($14.95) #A880. All models are UL-listed and carry 1-year limited warranties.

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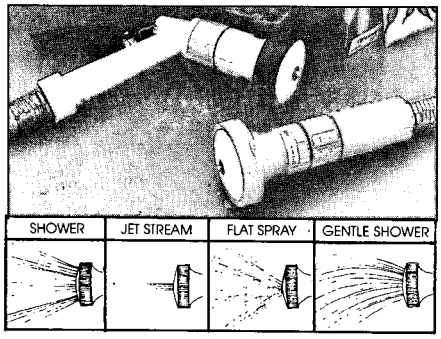
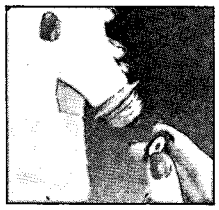
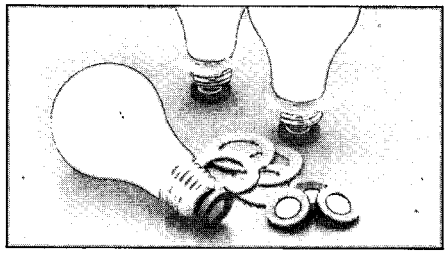


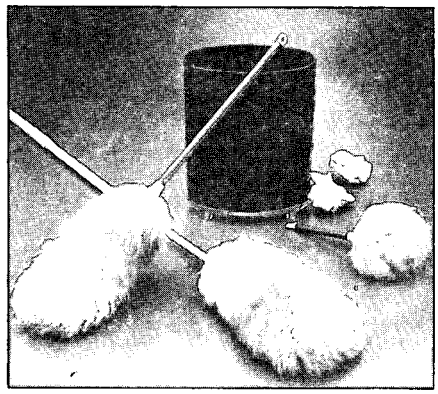
UL LIGHT BUTTONS



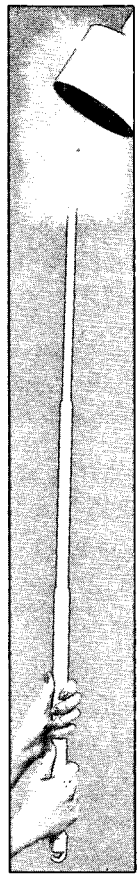
They are familiar household conveniences now, the little half-wave rectifier buttons that attach to the bottom of light bulbs and extend their life up to 90 times, sparing you the trouble of bulb changing for years at a stretch while you save a bundle in bulb replacement costs. But the patented Screwge Bulb Saver is one of the first to be UL-listed, meaning it has survived nearly two years of strenuous independent laboratory testing and been certified safe for home and commercial use. Screwge Bulb Savers reduce light output so you may want to increase bulb wattage. 6 for **$13.00** ($1.95) #A1052, 12 for **$21.00** ($2.95) #A1053 and 24 for **$39.00** ($3.95) #A1054. 5-year warranty.



DUST MAGNETS™



Tools for Living has introduced tens of thousands of people to the delights of lambswool dusting in the past two years. Lambswool puts the feather duster to shame by making dust literally leap off surfaces where it has accumulated. This magnetic attraction is just the thing for dusting bric-a-brac, china, crystal, pictures and other fragile items. Our dusters are imported from New Zealand where climate conditions produce the highest quality lambswool in the world! Our all-time favorite, the standard 27" long duster costs only **$7.00** ($1.95) #A780. We offer our newest find, a telescoping duster that extends to more than 4 feet! This *Tools for Living exclusive* is made with an extra heavy handle and collapses to 28" for easy storage. **$12.00** ($1.95) #A1057. Buy both the standard and telescoping duster for the remarkable low price of **$19.00** ($1.95) #A1058 and we'll give you a bonus mini duster ($4.50 value) FREE!



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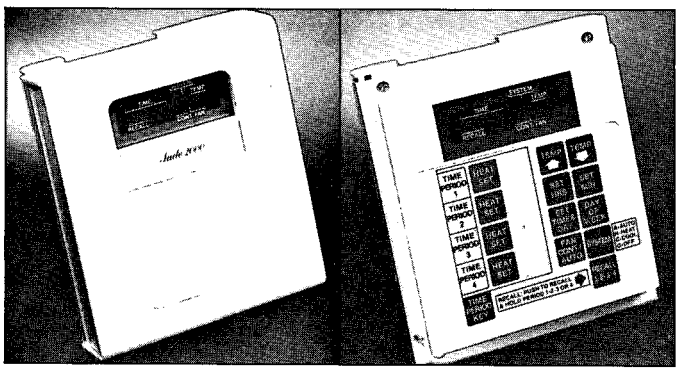

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change has not come from major American pharmaceutical companies. Although Merck & Co. has made a foray into magazine advertising for one of its products and companies are running ads aimed at professionals, William Castagnoli, president of a New York advertising agency specializing in medical advertising, told REASON that many of the larger firms are reticent to advertise drugs directly to consumers. Indeed, at a Washington conference earlier this year, representatives of Upjohn and Lilly stated outright that they much preferred marketing prescription drugs to "informed third parties"—that is, doctors.

Castagnoli explained that advertising directly to consumers would "revolutionize" marketing practices, and many of the large companies don't want the disruption. "Their marketing machinery is set up for health professionals," he said. "They have highly trained people dealing directly with doctors, and they don't want to shell out another $10 million for ad campaigns to the public." He pointed out that the two companies most eager to go beyond FDA proscriptions are Boots, a British-owned company, and Ciba-Geigy, based in Switzerland.

Federal officials are unsure how to respond to the pressure to open up the advertising market. The FDA is currently trying to devise new guidelines, and in 1983 the agency imposed a moratorium on advertising prescription drugs to the public until the new policy is issued. Moreover, a House subcommittee chaired by Rep. John Dingell (D-Mich.) is planning hearings on prescription-drug advertising—but as of May, no legislation regulating the advertising is in the hopper.

The pressure for giving advertising freer play in the market may be irresistible. Washington will no doubt moan and propose, but it may turn out to be a case of the tail wagging the dog.

DRIVING OUT TAXI REGULATION

What's a city to do—or, to be specific, what are New Orleans and Minneapolis to do, now that the Federal Trade Commission has started up legal proceedings against the two cities on grounds that their taxi regulations violate the federal antitrust laws? Tim Muris, director of the FTC's Bureau of Competition, thinks the cities ought to deregulate their taxi businesses—and that other cities with anticompetitive taxi regulations should take heed, as well.

The FTC's action is its first antitrust move against city governments since the 1982 *Boulder* decision, in which the Supreme Court ruled that local governments are subject to the federal antitrust laws. Over the past two years, private parties have increasingly assailed the anticompetitive and trade-restraining practices of local governments in the courts, but up until recently the FTC had kept its nose out of the fracas.

According to the commission, the governments of both New Orleans and Minneapolis conspired with cab companies to restrain trade. The specific acts of restraint include rate regulation, limits on the number of cabs allowed to operate, and prohibiting suburban-area cabs from operating within the city.

(Shortly after the FTC announced its proceedings against Minneapolis and New Orleans, the House approved an appropriations-bill amendment to restrict federal agencies from using funds in antitrust actions against cities. Just days later, the Senate Appropriations Committee approved a similar measure, which is expected to encounter great opposition in a full Senate vote. James Miller, chairman of the FTC, protested the House vote, calling it "an initiative to achieve a special interest exemption.")

If Minneapolis and New Orleans "did not have the challenged regulations," the FTC statement charged, "consumers would have more taxi service at less cost and with less waiting time." Muris estimates that deregulation would save consumers hundreds of millions of dollars and would create as many as 232,000 new jobs.

But there's more than one way to fight city hall on taxi regulation. And in Houston, it's the civil disobedience of Alfredo Santos, a 31-year-old graduate student who has started up an illegal *pesero*, or jitney service.

Santos uses a leased Yellow Cab to run a five-mile route through Houston, picking up passengers along the way who flag him down, for $1.00 per ride. Because Santos both solicits customers (including some who are waiting for city Metropolitan Transit Authority buses) and disregards the city's rate requirements for cabs, his operation violates

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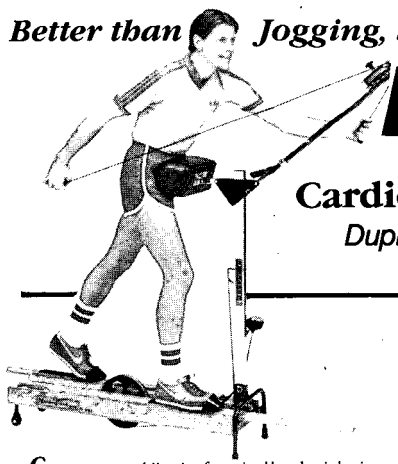

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Houston ordinances. So city authorities are out to nail him—even though Santos's customers appear to be quite satisfied with his service. The $1.00 fare is twice the city-bus base fare but is significantly lower than what regular taxis charge, and Santos's service is much faster than the bus.

Though MTA officials and Houston transit manager Antonio Montelongo are intent on rounding up the transit outlaw, Santos appears to have an ally in city government—one George Greanias, a city councilman who is pushing to reform the city's transit ordinances to allow, among other things, jitney services like Santos's. Of city officials' announced vow to nab Santos, the civil disobedient told the *Houston Post*: "They can try to stop me if they please, but I have no intention of stopping the *pesero* voluntarily."

HOLLYWOOD HAPPY OVER HOT VID BIZ

Videocassette fever is sweeping America, and it looks as if just about everybody is cleaning up. That includes the Hollywood moviemakers who not so long ago feared that booming video sales would seriously depress movie-theater attendance. Anticipating economic gloom, Hollywood's knee-jerk reaction was to seek (unsuccessfully, so far) legislation to control and regulate the video market. That effort is waning, however, now that the studios are beginning to see soaring dividends from the video revolution.

Just five years ago, movie producers earned only negligible income from selling their own videocassettes (or licensing others to make cassettes of the studios' movies), but last year's income from that source reached $625 million—13 percent of Hollywood's total revenues for the year. The nation's 12,000 video dealers, the storefront shops that both rent and sell cassettes (and that hardly even existed five years ago), also did a bang-up business last year, renting out 150 million cassettes and selling 8 million.

Far from depressing attendance at the theaters, video sales and rentals appear to stimulate the public's movie-going interest, on which consumers spent $3.7 billion last year. Theater owners are still somewhat jittery about the effect of home video viewing on movie attendance—by year-end, home videocassette recorders, the machines that play the cassettes on a TV set, are expected nearly to double in number from the 9 million units now owned by Americans. (VCR sales may have gotten a boost by the Supreme Court's ruling, in January 1983, that home videotaping of TV fare does not violate copyright laws.) But some theater owners are themselves catching the fever and are selling videocassettes in their lobbies (a tactic used by X-rated theaters for years).

Best of all, *consumers* are profiting from all the hustle of the unfettered video market. Because moviemakers get no cut of video dealers' income from cassette rentals, the studios are instead pushing video sales. And they're going about it in the old-fashioned way: by cutting prices and aggressively marketing their wares. For instance, while the average movie cassette has been going for $80 to $90, Paramount has been selling some of its biggest hits—including *An Officer and a Gentleman*, *Raiders of the Lost Ark*, and *Flashdance*—for $39.95. The studios are making it easier for customers to buy the cassettes by distributing them through supermarket and discount-store chains, as well as through specialty video shops and record stores.

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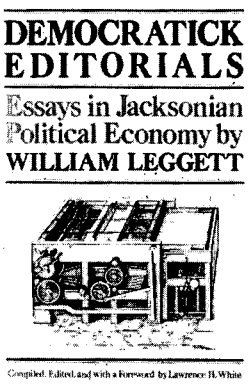

Democratick Editorials

Essays in Jacksonian Political Economy
By William Leggett

Compiled, Edited, and with a Foreword
By Lawrence H. White

William Leggett, writing for the New York *Evening Post*, the *Examiner*, and the *Plaindealer* in the 1830's based his editorial views on the principle of equal rights to liberty and property.

He held that principle to mean that law may not discriminate among citizens, benefitting some at the expense of others. Strict application of this view led him to favor minimization of government power.

In these essays Leggett brings his views to bear on the issues of the Jacksonian period. Since many of the questions of principle in his day recur in our own, the editorials are of contemporary as well as historical significance.
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And the competition among video-rental outlets is so keen now that in some places rental fees are as low as $1.00 per night.

There are bound to be some losers in the fight to satisfy consumers—cable movie networks, like Home Box Office, for example, may lose something to the videocassette competition. But, as they say in Hollywood, that's show biz (or, for that matter, any biz).

CONSUMER CONTROL, THE NEW PRESCRIPTION

Can consumers make sensible decisions regarding the use of medical drugs? The federal government thinks not, so we have the Food and Drug Administration and a host of controlled-substance laws to see to it that we can't make those decisions for ourselves. But that rationale for drug regulation—if it *ever* made sense—is looking ever shakier thanks to low-cost computer technology.

In a chapter from *Pharmaceuticals in the Year 2000* (published by the Alexandria, Virginia-based Institute for Alternative Futures), James Turner discusses how access to computerized health information enables consumers to make more-informed health decisions, thereby bringing into question the present style of drug regulation. Because such specialized information is increasingly available to consumers, individuals are in a better position to assess the risks of pharmaceutical use and decide for themselves which risks are worth taking. "The more information that is available," writes Turner, "the less need there is for intrusive government regulation." (This is an especially interesting thought coming from the author in 1970 of the "consumerist" work *The Chemical Feast: The Nader Report on the Food and Drug Administration.*)

Turner predicts a rapid increase in consumer medical software, "precisely because consumers will be able to purchase [these] new technologies without the government approval required for pharmaceuticals or other devices." And if consumers seek more information relevant to making health decisions, product manufacturers will respond to this demand, suggests Turner, and this will push government regulatory efforts toward increasing information and away from product regulation.

"By making it possible for any number of users of a particular drug to be systematically followed," Turner writes, computers can "greatly improve the existing adverse-reaction reporting system" (whereby individuals' bad reactions to specific drugs are reported to a central data bank). And within such an environment, "the government no longer has the authority (if it ever did) and we can no longer afford (if we ever could) to deprive the entire population of access to products or opportunities that might be harmful or less than optimal to some portion of the population."

Describing that approaching environment, Turner envisions an independent organization like Consumers Union that, through an extensive computer communication network, would "report on adverse reactions, do so by brand and type comparison, and also look at drug overlap and drug misuse."

Already there is developing a consumer-oriented network of health and

GLOBAL TRENDS

CREEPING PRIVATIZATION OF SOCIAL SECURITY

BRAZIL—The government-run social security system in Brazil is supposed to provide both health insurance and retirement pay. But the near-bankruptcy of the system is encouraging entrepreneurs to carve out a new market for themselves in both areas.

Since 1977, several banks, insurance companies, hospitals, and a host of smaller companies mostly owned by groups of physicians have offered health-insurance plans to individuals and groups. Practically all large and medium-sized enterprises have contracted with these private companies to provide medical care for their employees, and smaller enterprises are gradually adopting similar plans. By last year, 3 million Brazilians—2.3 percent of a population of 128 million—were covered by private health insurance. In addition, several hundred thousand individuals who are not satisfied with their company's insurance plans or wish to supplement them, or who are self-employed, have bought private plans.

The growth of private health insurance is understandable. The government system is a fiasco, and although everyone pays into it, large sections of the middle and upper-middle class say they never use it.

The social security system was created by fascist dictator Getúlio Vargas, "the friend of the working man," who ruled Brazil between 1930 and 1945. It was later expanded by conservative and social-democratic governments. Employees' "contributions" to the system have risen from 6 to 10 percent in the last decade, with another 10 percent coming from employers. Calls for raising this level even higher have fallen on deaf ears. But when economist Paulo Rabello de Castro, a former student of Milton Friedman's, proposed total privatization of social security, his suggestion was violently condemned. Still, the system as it has been in the past is withering away.

Its decline is accelerated by the fact that since 1981, several banks and insurance companies have offered a variety of retirement plans, partially spurred by the growth of Individual Retirement Accounts (IRAs) in the United States and private opting out of social security in Britain. These Brazilian retirement plans have become "the mother lode of financial groups," according to one publication. So far, over 300,000 Brazilians have bought such plans. The potential market is estimated at 1.5 million initially and about 8 million total, or 20 percent of the employed population.

The main reason for the growth of private retirement plans seems to be that regardless of the amount "contributed," the social security system's retirement check will be a meager 39 percent of a worker's average income in the year before retirement. This 39 percent is further reduced by constantly manipulated government statistics, "correction" for inflation being sometimes as much as 43 percent below real inflation levels. The market, on the other hand, is offering flexible plans with contracts guaranteeing a specific monthly amount paid

(Continued on p. 20)

medical information, though not yet as sophisticated as the situation that Turner foresees. In San Francisco, for example, the Planetree Health Resources Center has collected a substantial library of health literature—some 1,500 books and numerous indexed clippings—geared toward the layman. Anyone curious about a specific health problem can mail $5.00 to Planetree, and the organization will send the person an 8- to 10-page packet of information on that particular problem.

And last year, *Prevention* magazine publisher Richard Rodale started up the People's Medical Society (PMS), a 40,000-member organization that *Esquire* described as "a medical Better Business Bureau designed to help consumers choose their doctors knowledgeably." The society's goal is to provide its members with information about specific physicians and medical facilities, on a nationwide scale. After every visit to a physician or health-care facility, PMS members fill out a questionnaire and mail it to the society. The society keeps files on these doctors and facilities, and members can call the society for information about a particular doctor (or hospital, etc.).

The society encourages physicians to join, asking them—but not as a membership requirement—to sign a pledge not to prescribe unnecessary treatments and to do everything to help patients take care of their health by themselves. Those physicians who do sign the pledge may display the society's sticker for patients to see.

The computerization of information services like those of Planetree and PMS may ultimately mean that consumers can resort to informed choice, rather than governmental regulation, as their best defense in the medical marketplace.

SHEDDING LIGHT ON REGULATION

Economic truths have a way of piercing the myths that insulate them, eventually to reveal themselves—often with a shock. One such truth concerns the follies of electric-utility regulation, an issue that's becoming a real live wire.

In a recent cover story, *Business Week* charted the emerging debate—and shift in thinking—over the electric utility industry. As financial woes descend upon the utilities—many of which had not anticipated the falling growth rate of electricity demand and consequently overinvested in costly new plants—more and more analysts are pointing to regulation as the real culprit.

Because the regulators set utility rates based on costs plus a specified return on investment (a state-approved and -guaranteed profit, that is), "the only way utilities could add to profits was to add to their rate bases—and that meant build or stagnate," *Business Week* noted. Typically, then, utilities pushed through multibillion-dollar nuclear-plant projects, proposed and approved before the 1979 Three Mile Island accident, which led to greater regulatory scrutiny—and costly delays and interruptions. But utilities can pass on these costs to consumers, in the form of higher rates, only when the plants go into operation—another incentive to keep projects under way rather than abandon them. Anticipating these perverse effects, Nobel-laureate economist George Stigler told REASON Contributing Editor Tom Hazlett in an interview last year: "The total cost of electricity in the United States is going to be higher 10 years from now than it would be in the absence of regulation."

But consumers have wised up and are agitating against both new utility investments and the system of passing costs on to customers automatically. As a consequence of these mounting financial and political troubles, investors and lending institutions are shying away from the utilities.

Moreover, some critics of the cost-plus system are probing further into the regulatory structure, calling into question the long-established practice by which regulators grant utilities monopoly status based on the idea that electricity production and distribution is a "natural monopoly"—that is, the idea that within a specific market (a city, for instance), only one company can provide the service profitably, so the state must grant one provider an exclusive franchise and then regulate its rates.

"Just as technological breakthroughs made it possible to break up the telephone monopoly," *Business Week* reported, "some experts believe the technology is now available to begin ending the monopoly of the electric industry, at least at the power generation stage." Indeed, William Berry, chairman of Virginia Electric & Power Co., told the magazine: "We ought to consider the idea of a deregulated industry."

To test the waters of at least partial deregulation, the Federal Energy Regulatory Commission in December ap-

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Dismantling a regulatory system that's been around since the '20s will certainly be more than an overnight task. But at least some of the players are beginning to see the light.

GLOBAL TRENDS

(Continued from p. 18)

after *x* years of contributions, fully corrected for inflation and lasting until death.

In spite of the fact that Brazil's problematic distribution of income—a legacy of decades of massive government intervention in the economy and restrictions on market entry—has reduced the number of people who can afford private social security, the present trend may whittle away political and ideological opposition to further privatization, not only in social security but in other fields, as well. Indeed, a trend in that direction is already apparent.

—JOSE ITALO STELLE

DUTCH TREATS

THE NETHERLANDS—The queen's birthday here is always a grand occasion. The celebration takes place at the end of April, the birthday of the present queen's mother, Princess Juliana.

In Amsterdam, as in several other Dutch cities, one of the important features of the celebration is the traditional *vrijmarkt*, "the free market." On the queen's birthday, anyone may set up shop on the sidewalks of the city without being subject to taxes or regulations. The whole of Amsterdam becomes the equivalent of a flea market, carnival, and neighborhood party all rolled into one.

In the center and in many other quarters of the city during this year's celebration, the sidewalks were lined with people selling old clothes, toys, books, and miscellaneous items. A great number of food stands and bands playing every imaginable kind of music lent a festive air to the occasion.

Some residents of Amsterdam have complained about the increased commercialization of the festivities in recent years, a far cry from the times when many of the street merchants were youthful entrepreneurs in the lemonade-and-baked-goods business. But the flurry of economic activity might well serve as a lesson to those who see the answer to economic problems in higher taxes, greater regulation, and bigger government.

Over the Royal Palace in Amsterdam is a statue of Atlas, holding the world on his shoulders. Celebrations such as these may show that, deep down, the Dutch are indeed conscious of who it is that sustains the world.

—PAUL ST. F. BLAIR

MILESTONES

• *Worth a try.* Notwithstanding its employment of the Orwellian notion that a tax break constitutes a "subsidy," the *New York Times* sensibly suggested in a recent editorial that enterprise zones "deserve a test." An enterprise-zone bill has already passed the Senate and must make its way through the House to become law.

• *Higher taxes axed.* Cleveland and Cincinnati voters defeated measures to raise their cities' income-tax rates from 2 to 2.5 percent.

• *Myth demolition.* Gentrification—upper- and middle-class families moving into depressed neighborhoods, renovating homes, and boosting property values—again comes off well, this time in a study by the New York City Planning Department. In two Manhattan neighborhoods where extensive gentrification has occurred, the study found housing conditions had improved, deterioration had been reduced, and the city's tax base had increased through strengthened commercial districts. Moreover, while there was some displacement of poor residents because of gentrification, other poor residents moved because of *not enough* gentrification—their part of the neighborhood was continuing to decline.

• *Threadbare union suit.* In April, the Supreme Court ruled unanimously that when a union collects compulsory dues, it may not use a member's dues to pay for general organizing efforts if the member objects. Moreover, the union may not use the money, over the member's opposition, for litigation costs unrelated to bargaining.

• *The ICC man cometh.* Some powers of the Texas Railroad Commission, which has refused to cooperate with federal railroad deregulation, are being derailed. The Interstate Commerce Commission announced in April that it is displacing the state agency's regulation of intrastate railroads in Texas.

• *Letter perfect.* Rep. Bill Green has proposed that the Postal Service monopoly be ended in districts where mail service has been particularly lousy. "Surely, if it cannot deliver, the Postal Service should not object if we seek someone who can," the Manhattan Republican wrote in the *New York Times.* The Green proposal would, of course, permit free-enterprise mail for his constituents in Manhattan.

• *Bluenoses broken.* On May 1, Indianapolis mayor William Hudnut, a professional minister, signed an ordinance making pornography a violation of women's civil rights. An hour later, the ordinance was challenged in federal court. And on May 9, a federal district judge issued a preliminary injunction prohibiting enforcement of the ordinance until the suit is resolved.

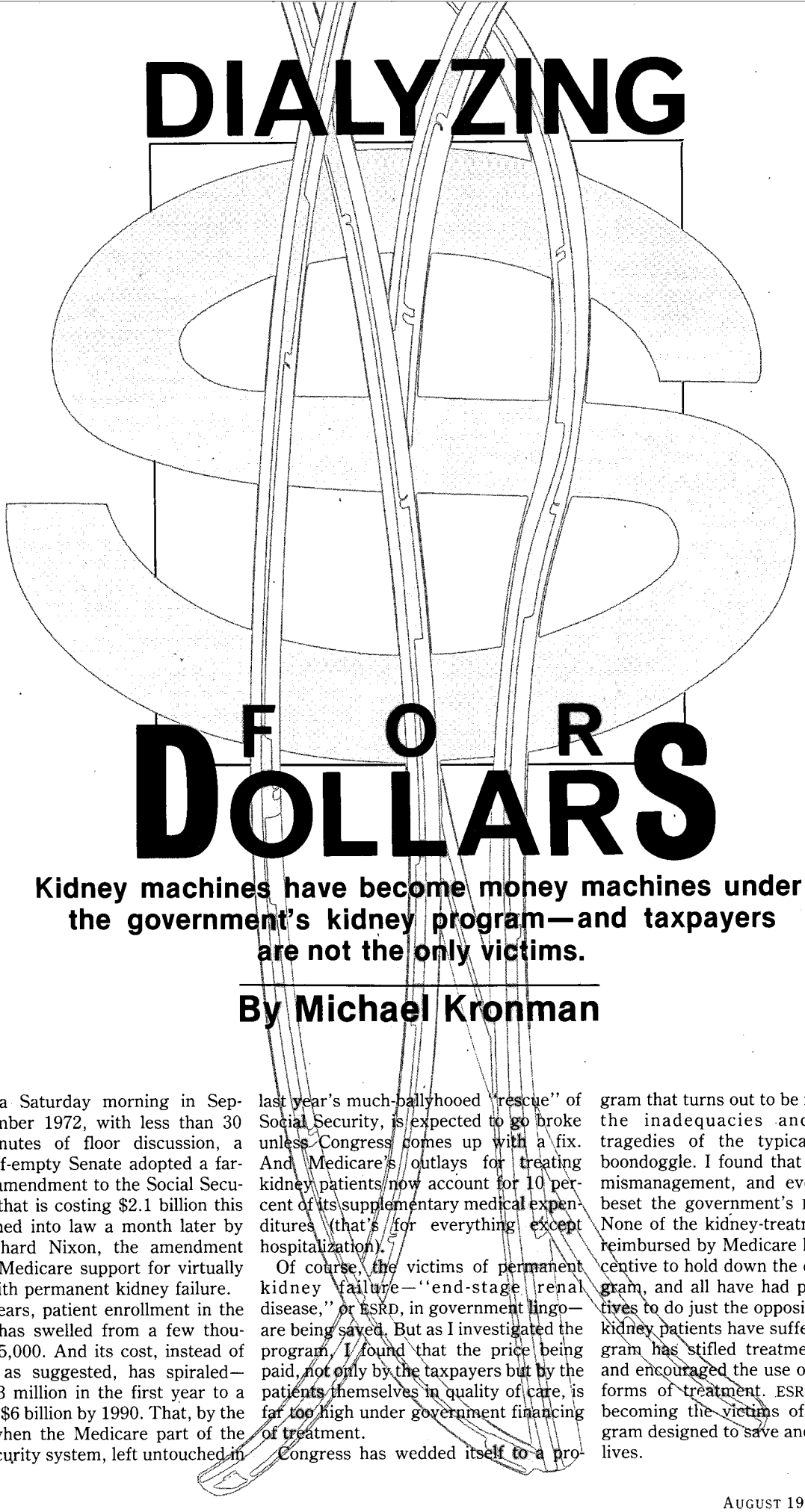
—ROBERT W. POOLE, JR., PAUL GORDON, AND ERIC MARTI

GLOBAL ROUNDUP

• *Turkey: state under siege.* Since his election as Turkey's prime minister last December, Turgut Ozal has moved swiftly to fulfill his promises to cut back the state and implement more market-oriented policies throughout the nation (see Global Trends, Feb., page 22). Though the head Turk hasn't actually sold off the Bosporus Bridge, his scheme to sell revenue bonds in the profitable span—as well as in other state-owned enterprises—made it through parliament. Among his other reforms have been the deregulation of interest rates, abolition of certain import barriers, formation of tax-free zones, and reduction of the minimum income-tax rate from 36 to 30 percent.

• *Bank on freedom.* In a May referendum, voters in Switzerland voted 3 to 1 against a Socialist Party proposal to do away with the traditional secrecy of Swiss banks. The proposal would have required banks to open their customers' records to Swiss and foreign tax authorities. On the same day, Swiss voters rejected a right-wing party's measure banning sales of residential property to foreigners.

DIALYZING FOR DOLLARS



Kidney machines have become money machines under the government's kidney program—and taxpayers are not the only victims.

By Michael Kronman

On a Saturday morning in September 1972, with less than 30 minutes of floor discussion, a nearly half-empty Senate adopted a far-reaching amendment to the Social Security laws that is costing $2.1 billion this year. Signed into law a month later by Pres. Richard Nixon, the amendment provided Medicare support for virtually anyone with permanent kidney failure.

In 12 years, patient enrollment in the program has swelled from a few thousand to 75,000. And its cost, instead of declining as suggested, has spiraled—from $283 million in the first year to a projected $6 billion by 1990. That, by the way, is when the Medicare part of the Social Security system, left untouched in last year's much-ballyhooed "rescue" of Social Security, is expected to go broke unless Congress comes up with a fix. And Medicare's outlays for treating kidney patients now account for 10 percent of its supplementary medical expenditures (that's for everything except hospitalization).

Of course, the victims of permanent kidney failure—"end-stage renal disease," or ESRD, in government lingo—are being saved. But as I investigated the program, I found that the price being paid, not only by the taxpayers but by the patients themselves in quality of care, is far too high under government financing of treatment.

Congress has wedded itself to a program that turns out to be riddled with all the inadequacies and sometimes tragedies of the typical government boondoggle. I found that cost overruns, mismanagement, and even fraud have beset the government's ESRD program. None of the kidney-treatment providers reimbursed by Medicare has had any incentive to hold down the cost of the program, and all have had plenty of incentives to do just the opposite. Meanwhile, kidney patients have suffered as the program has stifled treatment innovations and encouraged the use of less-desirable forms of treatment. ESRD patients are becoming the victims of the very program designed to save and enhance their lives.

The ESRD program, with all its unanticipated consequences for patient care and costs to taxpayers, is of special interest to me, for I have been a patient in the program. In September 1979 I walked into my doctor's office thinking I had the flu and came out knowing that I had permanent, irreversible kidney failure. I spent nearly nine months having hemodialysis treatments on a kidney machine three times a week, with a quality of life I don't like to remember but can never forget.

Then on May 5, 1980, my older brother donated a kidney for me, so I could, at the age of 32, begin a normal life again. Side by side, we were wheeled into an operating room and experienced first-hand the technological twilight zone of modern medicine. According to observers, the surgery was flawless, as not a thimble of blood was lost from either of us during the three-hour procedure.

When I awoke following surgery I was immediately relieved to have passed the first test—I was alive. I was told that my new kidney had started functioning right on the operating table. My brother was fine. I was fine. Then my eyes wandered around the intensive-care transplant unit at the University of California, Los Angeles (UCLA), finally settling on the maze of machines and intravenous tubes that were hooked to me. I managed to stay awake for 60 seconds or so, just long enough to gather in what had transpired. My kidney transplant was complete.

I slept until the following day. When I awoke the second time, I learned that my blood chemistry was beginning to stabilize, as the accumulated toxins of a chronic illness slowly disappeared. Like a car with a new fuel filter, the impurities began leaving my system.

Within a week, as my condition improved (without any hint of my body rejecting the new kidney), I became confident that my life would return to normal. A dream come true (and, thanks largely to the government's ESRD program, at no expense to me). I left UCLA on May 12, 1980, and never looked back. Today, my brother and I are both in better shape than we were as teenagers. He swims five miles a week, and I play racquetball regularly. When people see me, it is hard for them to believe I was terminally ill.

Until about 25 years ago, people suffering permanent kidney failure were doomed to certain death. But development of a modern lifesaver, hemodialysis, changed all that. Today, the lives of ESRD patients are being prolonged for years by this phenomenal procedure.

Most simply, hemodialysis is a mechanical process whereby blood is drawn from the body and cleansed of impurities in a process mimicking the body's kidneys. Outside the body, the blood is passed along one side of a man-made membrane, with a special solution on the other. Due to the laws of chemistry and physics, certain molecules pass through the membrane, eliminating waste products and excess fluids. The blood is then returned to the body, in a continuous process of cycling and cleansing.

The history of dialysis is rather short. As early as 1913, scientists experimented with the external dialysis of blood in laboratory animals, with some degree of success. But it was not until the 1940s that a dialysis machine was used to save a human life. Developed in Nazi-occupied Holland by Dutch physician Willem J. Kolff (see sidebar, page 27), it was used on 17 patients in 1943. Only one survived, but the modern age of hemodialysis was upon us.

From the time of Kolff's brilliant discoveries until 1960, kidney machines were primarily used to treat people with temporary kidney failure. Those with permanent loss of function could only survive as long as they stayed hooked to a machine.

Then in 1960 Belding H. Scribner, a doctor at the University of Washington Medical School in Seattle, devised a way to repeatedly hook and unhook patients from machines, using implanted tubes that are connected outside the skin with a teflon device. Scribner's invention allows for normal circulation until time for a kidney treatment, when the tubes are disconnected from each other and a dialysis machine is "plugged in."

This breakthrough opened the door to a promising new medical frontier. But dialysis treatment, though proven effective in saving lives, was still experimental and expensive. A single machine cost $6,000 (the equivalent of nearly $20,000 today). In addition to Dr. Scribner's dialysis center in Seattle, only a few other treatment facilities existed. The simultaneous availability and scarcity of this new lifesaving technique, and the attention that this disparity invited, led to an increasingly intense bioethical debate.

Researching newspapers and popular magazines from the early '60s, I found numerous dramatic accounts of the dilemmas facing the medical community. A *New York Times* article in May 1962 referred to the new era of hemodialysis as "one of the most dramatic stories of medical triumph and tragedy in recent history.... A handful of men and women who should be dead by normal medical criteria, are living and leading nearly normal lives....[But] because facilities for care are limited, inevitable death [from] kidney disease [is in store] for thousands of others."

Later that same year, a *Life* magazine article described the method by which a seven-member lay committee in Seattle decided who would have access to the limited number of machines in the dialysis unit there. Americans shuddered at such stark ethical choices.

Meanwhile, an expanding government role in health care was at hand that would eventually affect the future of kidney-disease care. In 1965 Medicare and Medicaid were added to the Social Security system to provide government-subsidized insurance for the aged and indigent. Combined with the success and high visibility of hemodialysis, this precedent set the stage for the federal government to consider paying for both dialysis and kidney transplants.

By 1967, 1,000 patients were being maintained on dialysis, a 10-fold increase from 1964. As dialysis centers began increasing in numbers, the issues of availability and patient financing were frequently raised. Treatments were being paid for by a patchwork system including private insurance, the federal government (for veterans, the aged, and indigent), philanthropy, state governments (in a few cases), and the patients themselves. But it seemed to many that the high cost of dialysis would pose a continuing constraint on its availability.

Some patients were dialyzing in their homes with machines costing as much as $10,000 in 1968. Dutch physician Willem Kolff, the inventor of the dialysis

It should have been obvious early on that Congress had made grave fiscal misjudgments.

machine in the 1940s, told me he was shocked to learn of the high cost of dialysis machinery being used on an experimental basis in the United States when he immigrated here in 1950. Intent on altering this situation, Dr. Kolff continuously pushed to reduce costs. By 1968 he had modified Maytag washing machines into dialysis machines at a fraction of the cost of machines then in use. That same year he sent 21 people home with machines and two months' worth of supplies for a total cost of $360 per patient. Kolff's machine offered considerable promise for bringing dialysis costs within a more widely affordable price range.

The future of kidney transplantation was bright, too. Doctors were beginning to tap the secrets of organ rejection (the rejection of foreign tissue by the recipient's body), a problem that has plagued this remedy since the first human kidney transplant in 1947. Improved success with transplants offered promise as a means of trimming the dialysis population and providing what many medical experts and patients consider the most suitable, life-restoring therapy for kidney disease.

But the improvements in transplant capabilities and the design of cost-saving equipment did not resolve the ethical dilemmas over dialysis. In the first place, the transplant panacea turned out to be more illusion than reality. Initial developments in the 1960s were followed by two decades of disappointment and frustration. Second, Dr. Kolff told me that because of liability uncertainties, Maytag Washing Machine, Inc., advised its salespersons not to sell him and his associates their washing machines through normal channels, and Kolff was forced to obtain the machines "under the counter." Needless to say, these difficulties hampered his efforts to make this cost-saving equipment more widely available.

With neither a cure nor lower costs to patients near at hand, access to dialysis remained a problem. The dramatic nature of machine-dependent treatments, coupled with the proliferation of this rapidly expanding technology, gave rise to frequent publicity and greater public awareness about the controversy. As early as 1965, an NBC-TV report had scolded the government for spending millions on the space race and a comparative pittance on saving the lives of kidney patients. In 1971 a New York man dialyzed himself in front of the House Ways and Means Committee to dramatize the plight of ESRD patients.

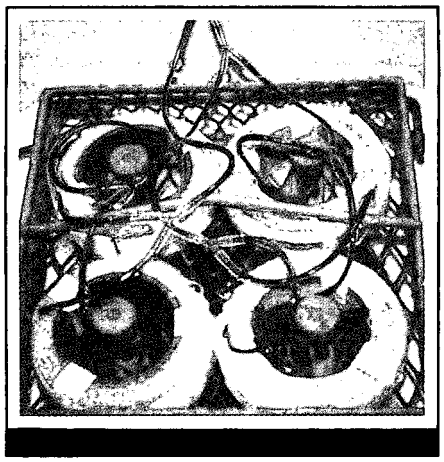
The effects of these portrayals of the ESRD predicament should not be minimized. There are, after all, other catastrophic disabilities that affect as many people and cost as much to treat as kidney failure but don't lure as much government money. Richard Rettig, professor of social sciences at the Illinois Institute of Technology, notes that taxpayers are not footing the bill, for example, to treat hemophiliacs, whose numbers exceed those with kidney failure. The central symptom of hemophilia is serious bleeding, and Rettig figures that a quarter of all hemophiliacs "require continuous replacement of fresh whole blood, plasma, and clotting concentrates," a therapy at least as expensive as dialysis.

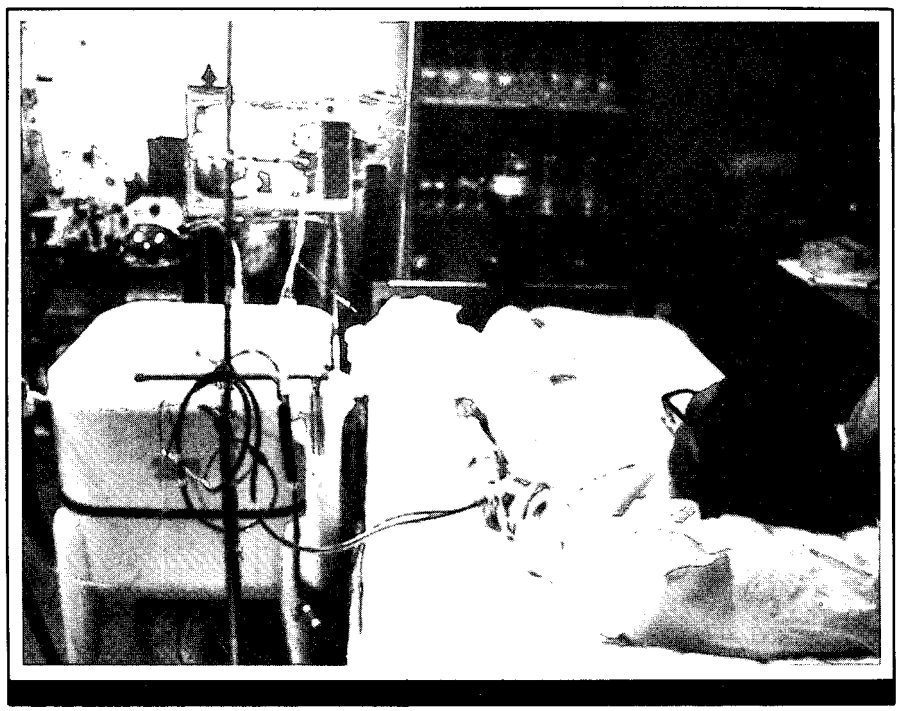
But with all the attention focused on the plight of ESRD patients in the early '70s, pressure on legislators to "do something" mounted. The federal government responded by funding numerous research grants and pilot dialysis projects. At the same time, however, over 100 pieces of legislation aimed at a more thorough commitment to kidney-disease victims died on the vine. In this light, the hurried passage of ESRD legislation in 1972 more closely resembles a moral exorcism than the informed resolution of a thorny ethical problem.

Despite the persistence of many unresolved policy issues, 10 years of debate over the availability of kidney-disease therapy ended in less than 30 minutes. The Senate and House of Representatives scurried to put new Social Security legislation on the president's desk before the November presidential election, modifying the Social Security benefit structure and revising Medicare provisions. Sweeping commitments to ESRD financing were added to the package of amendments almost as an afterthought.

No hearings on ESRD provisions had been held when Sen. Vance Hartke stepped forward on a Saturday morning, September 30, 1972, to propose that the Social Security system's Medicare coverage be extended to virtually all victims of end-stage renal disease. Only Sen. Wallace Bennett spoke against the proposal, calling it "Christmas in September."

Emotional appeal proved the motive force in passage. Sen. Russell Long, cosponsor of the ESRD amendment, pleaded that "these unfortunate citizens...cannot wait....They need help—it is critical—and that help must come now."





In the 1960s, kidney-machine inventor Dr. Willem Kolff developed a low-cost machine (below) in which coils were placed in a Maytag washing machine (above).

Photographs courtesy University of Utah

The Senate voted 52 to 3 in favor of the amendment. The joint conference committee of the House Ways and Means Committee and the Senate Finance Committee discussed the matter for only a few minutes before voicing their rubber-stamp approval of the ESRD measure. Both the Senate and House accepted the conference committee's report, and President Nixon signed the kidney provisions into law on October 30, 1972.

The measure made 95 percent of the US population eligible for federal support in the event of end-stage renal disease. Medicare would cover 80 percent of the allowable costs of dialysis and of transplants, with "allowable costs" defined by the 1972 bill and by the program's administrators.

For the average patient today, this means that Medicare pays $23,000 a year for dialysis treatment, 80 percent of the total $28,000 annual bill. A transplant costs about $25,000, of which 80 percent is also picked up by Medicare. (At present, 39 states complement the Medicare coverage by assuming responsibility for the remaining 20 percent of Medicare-allowed costs. Private health insurers generally cover the remaining allowable costs in other cases.)

Kidney patients are becoming victims of the very program designed to save their lives.

Passage of the ESRD program in 1972 was heralded as a victory by patients, dialysis health-care providers, and well-meaning legislators. But proponents of the funding did not anticipate its consequences.

Senator Hartke told Congress that the program would cost $90-$100 million in the first few years. It was, he said, "a minor cost to maintain life." He estimated that fourth-year costs would be perhaps $250 million.

Indeed, Hartke and a handful of other proponents argued that the cost would be likely to decline from that point, as technical breakthroughs lowered treatment costs and kidney transplants reduced the demand for dialysis. Moreover, the cost of the program itself would be offset, Hartke argued, by the fact that dialysis would permit patients to return to work and lead productive lives.

Hartke's predictions proved to be appallingly wide of the mark. The actual cost for the first year was $283 million, nearly $200 million more than his estimated $90-$100 million. The fourth-year cost, even when adjusted for inflation, was more than double what Hartke had predicted.

Today, the cost per year has surpassed $2 billion, equal to $800-some million even in Hartke's 1972 dollars. Although inflation-adjusted costs per patient have actually declined, that fact has been obscured by a dramatic and persistent increase in the number of patients treated for kidney failure. When the ESRD amendment passed in 1972, there were just over 5,000. Today, more than 75,000 patients are on dialysis—and the trend has not stopped. The percentage of patients receiving transplants is low. And only a third of all kidney patients hold down a job.

It should have been obvious early on that Congress had made grave fiscal misjudgments that would eventually come back to haunt the Medicare system. But it was not until 1978 that the legislators ordered the first comprehensive audit of the program to find out what was happening. In 1978 and again in 1981, Congress passed legislation to change ESRD reimbursement provisions. Changes were finally implemented in May 1983.

It is the original provisions, only somewhat modified in last year's reforms, that have shaped kidney treatment in the United States. Close scrutiny of these provisions reveals why it is that costs and patient rolls have soared—and how patients are often the losers.

Medicare reimburses dialysis facilities (hospitals with dialysis units or free-standing dialysis centers) on a per treatment basis. The original ESRD provisions put a $138 ceiling on the allowable cost per treatment, of which Medicare would pay 80 percent. But facilities could request exceptions to the ceiling if their costs exceeded the $138. Medicare also covered some, but not all, of the costs of home dialysis, in which the patient leases equipment for home installation and use. Doctors, for each of their patients treated in a facility—but not at home—were paid 80 percent of a monthly fee that averaged $220.

A multitude of incentives and disincentives are embedded in these reimbursement provisions. Poring through the historical record and what data exist, interviewing scores of medical experts, and talking with patients themselves, I found that these provisions have inevitably affected the cost of the ESRD program. But they also have had a profound effect on the nature of patient care in this country.

Consider, first, the incentives facing kidney doctors—nephrologists—under the ESRD program set up in 1972. These doctors faced financial incentives to put their patients on dialysis in centers instead of at home, to put as many people on dialysis as possible, and to keep them there instead of exploring alternatives. Did doctors respond to these incentives? Information from various sources certainly supports that conclusion.

Kidney dialysis, at four hours a crack and three times a week, is a major inconvenience in a patient's life. Home dialysis obviously affords suitable ESRD victims more flexibility in their lives than in-center dialysis. And at least in the early years of government funding, it may have been cheaper, as well. But the ESRD program covered doctors' charges only if a patient received dialysis in a hospital or independent (nonhospital) center. In addition, the physicians often have an ownership or profit-sharing stake in independent dialysis centers, further boosting their potential revenue from in-center instead of home dialysis.

The rate of home dialysis has fallen dramatically since Congress added ESRD to the Medicare system. In 1972, 40 percent of all dialysis patients were dialyzing at home. Today, that figure stands at just over 10 percent.

For their patients treated in centers, doctors were allowed a monthly fee. Although the fee, which averaged $220, was based on the assumption that they would see their patients 20 times a month, Medicare reimbursement was not tied to the number of actual visits. And in fact I learned that most doctors see their dialysis patients *no more than* five times a month. One government audit showed that doctors in some facilities were attending their patients an average of 1.12 to 1.56 times per month. So the reimbursement scheme had doctors being paid for services they didn't even perform.

Kidney-machine inventor Dr. Kolff told me that after passage of the ESRD

bill, doctors who were "previously uninterested" in treatment for kidney failure became interested in dialysis. "It was not rare to have dialysis physicians making $200,000 per year in 1973," he said. "They would conduct their private practice, just stick their heads into the dialysis facility, then go back to their private practice."

Early in my investigation of this situation, an anesthesiologist told me that nephrologists extend dialysis treatment to every possible patient who has any sign of kidney malfunction, including patients terminally ill with other diseases. This would not be surprising, given the incentives provided by the ESRD payment scheme. So I asked a number of medical experts whether the ESRD program pushes nephrologists in that direction. Not one of them would deny it, every one as much as agreed with it, but not one would speak for the record.

When I found that Arnold S. Relman, the editor of the *New England Journal of Medicine*, seemed to be suggesting in a recent article that dialysis is overprescribed, I asked him about this. Relman carefully noted that "no study has ever been done to assess whether we are dialyzing more patients than we can really hope to benefit." But he went on to say that given the "best available information, the facts are worrisome.... In the United States, no matter how old or what complications he has, a patient is given dialysis. We may be merely prolonging the dying of patients who are far too sick from other complications to benefit from dialysis."

In one study, Relman and Drummond Rennie compared US dialysis rates with rates in Western Europe in 1980 and 1981. France had the highest dialysis rate in Europe, with 133 patients per million. The United States, on the other hand, had nearly 205 patients per million. National differences in the incidence of different types of kidney disease might explain some of this variation. But the study concluded that such factors are unlikely to account for such a large difference.

I dug up some related and corroborating figures: In 1974, only 5 percent of ESRD patients were over 65 years old. By 1980, the number had grown to 20 percent.

The generous payment of nephrologists may also contribute to their apparent reluctance to refer even suitable kidney patients for transplants. A patient with kidney failure virtually always sees a nephrologist first and is placed on dialysis as an emergency measure to cleanse his blood of toxins. These patients must rely on their nephrologists to advise them of alternatives. But the nephrologist clearly has an incentive, however unconscious, to exaggerate the risks of transplantation, which if successful, removes the patient from dialysis. One dialysis patient even told me she thinks of herself as an "annuity" for her doctor!

The way doctors have been reimbursed under the ESRD program has had obvious consequences for the taxpayers. They are paying for treatment that is not in some cases in the best interests of the patients. They are paying for dialysis treatments year after year for patients who might have been better off with transplants. The costs of the ESRD disincentives to provide kidney transplants are particularly striking. One successful transplant currently runs about $25,000, whereas *yearly* dialysis costs now add up to $28,000. This is not even to mention yet the costs for potential transplant patients in quality of life.

This patient has been on dialysis for over 12 years. A kidney transplant costs $25,000; dialysis, $28,000 a year. But doctors reimbursed by the government for providing dialysis often don't refer their patients for transplants.

With an ever-larger percentage of a growing ESRD population dialyzing in hospitals and freestanding centers, the ESRD reimbursement structure facing these institutions has played a large role in overall program costs. But these institutions have had no incentive to reduce the cost to the taxpayer.

Of course, as with other government-funded programs, some of the soaring costs can be traced to outright fraud and abuse. The first comprehensive audits of dialysis providers, performed between 1978 and 1981, turned up not only mismanagement but waste and abuse, including the apparent prevalence of ripoffs—not cost overruns, but ripoffs. Examples included: (1) duplicated dialysis billings (over 300 in one unit alone); (2) fraudulent billing practices; (3) charges (nearly $150,000 for one facility) for treatments that were never given; (4) charges for laboratory tests that were never conducted (7,769 in one unit); and (5) charges for items unrelated to dialysis treatment, including theater tickets, vacations, and the like.

An audit of the ESRD program in one facility gave an indication of how the purchase of dialysis supplies from a related organization could be turned into a profit. The facility had formed a "paper" company to process supply orders: "This company, which had no inventory, personnel, or warehouse, purchased supplies from an outside vendor and then billed the facility for these supplies at 50 percent above what it paid for them." The government, of course, was billed for the marked-up cost.

Although such abuses contributed to the growing ESRD costs, I found, as with nephrologists, that the real problem derives from the incentive structure shaping the decisions of dialysis centers. Incentives worked differently for hospitals than for the private indepen-

Photograph courtesy Caryl Communications

dent dialysis facilities, because the reimbursement setup differed for the two types of centers.

Two factors worked together to push reported hospital costs higher and higher. First, hospitals were to be reimbursed according to a $138 ceiling or costs, whichever was lower. Second, the ESRD provisions permitted exceptions to the ceiling—and they were liberally granted.

My review of ESRD documents showed that exceptions were granted so liberally that over 50 percent of all hospital dialysis facilities were reimbursed at rates exceeding the ceiling. Some received payments more than double the $138 rate, and the average hospital reimbursement rate in 1980 was $159. Though legislation required that audits be performed before an exception was granted, in fact such audits were never done during the entire first eight years of the program. Virtually all requests for exceptions were automatically granted.

Given this reimbursement system, most hospitals, which were treating nearly 50 percent of all in-center dialysis patients in 1980, had no incentive to reduce costs at all. Instead, they had every incentive to increase costs—at least nominally—and simply apply for an exception to the reimbursement rate. The incentive to overreport costs was amplified by the fact that Medicare provided almost complete coverage for dialysis-related costs because of liberal definitions of allowable costs, compared to only about 30 percent of total hospital costs in other departments where stricter definitions of allowable costs applied. Clearly, hospitals could use the ESRD program to subsidize their overall costs.

Hospital representatives themselves admitted at a congressional hearing in 1982 that given the 1972 ESRD program, "it has actually historically been in the hospital's interest to shift as much cost as possible to the outpatient dialysis department, because the federal government reimbursed more money in that department....[Some] hospitals have large amounts of laundry and linen costs and supply costs [allocated to] the dialysis department, even though the dialysis unit may not use those supplies, primarily because it has been favorable to the hospital's overall reimbursement to do their accounting in that fashion."

The first comprehensive program audit had suggested how much such overreporting was adding to costs. The two randomly selected hospitals studied in depth had overreported costs by 26 percent and 35 percent. One hospital charged an average of $43 per treatment in excess of its real costs over a four-year period. The facility in question had been granted an exception to the $138 ceiling amounting to $172 per treatment, though its actual costs were well under the ceiling. Because the audited facilities were randomly selected, auditors thought it highly likely that the same overstatement of costs prevailed throughout the system at the time of the audit.

One dialysis patient said she thinks of herself as an "annuity" for her doctor.

While hospitals had no incentive to reduce the costs of dialysis, independent, nonhospital dialysis centers faced a very different incentive structure. Hospitals were reimbursed according to the $138 ceiling or *costs*; independents, according to the $138 ceiling or *charges*, whichever was lower. So, the independents, 75 percent of which are operated for profit, had a huge incentive to reduce actual costs while charging the $138 rate assured by Medicare. By driving down costs they could increase profits—but those cost reductions would not show up in the taxpayers' bill.

It is often charged or implied that the growing costs of the ESRD program should be laid at the feet of the profits available to independent centers. In fact, however, the independent dialysis facilities in general managed to operate within the $138 ceiling. Only 6 percent, compared to 54 percent of hospitals, applied for rate exceptions. So the profit-making centers are a bargain for taxpayers. Yet it seems clear that the ESRD funding provisions kept charges in these centers higher than they would otherwise have been.

Virtually no reliable cost data are available for the early years. But even after nine years of inflation, which meant that by 1982 independents were effectively receiving $60 per treatment in 1973 dollars, the great majority of these facilities still operated in the black.

To get some idea of just how lucrative the government-set rate might have been for independent facilities, I did a few rudimentary calculations using some 1980 data. In that year, 385 independent facilities provided 2.1 million dialysis treatments, an average of 5,494 treatments per facility. The Health Care Financing Administration, which administers the Medicare program, estimated that the cost per treatment in 1980 was $107. With reimbursement at $138, this meant an average profit of $31 per treatment and of $170,314 per facility.

That the dialysis program was indeed a profitable one for independent facilities is at least partly confirmed by their proliferation after passage of the ESRD measure. In 1972, only 68 such facilities existed. Within five years, there were 275 independent dialysis facilities, and by 1981, there were 466, nearly a seven-fold increase since the bill had passed.

Approximately 50 percent of these independent facilities are owned by chains, the largest of which, National Medical Care (NMC), now owns about 20 percent of all independent dialysis centers (as well as operating some hospital centers under contract). According to an NMC spokesman, the firm's revenues in 1983 were $311 million, compared to only $1.9 million just over a decade earlier. Net income for NMC was $23 million in 1983.

No doubt independents would have grown even without the 1972 funding provisions, as dialysis became a more common treatment. But it is clear that the $138-per-treatment guarantee nipped in the bud any price competition that might have lowered costs to the public.

All the provisions of the ESRD program worked together to push up patient rolls and keep the cost per patient high. Coupled with the usual potential for abuse that such programs invite, these factors have left the taxpayer to foot the bill for yet another program whose costs have ballooned way beyond initial expectations.

Yet taxpayers are not the only ones to have suffered from the way in which government funding inevitably affects the provision of a service. My investigations revealed that the program has also had perverse consequences for ESRD patients, their quality of life, and their range of alternatives.

Take, for example, the effects of the provisions regarding home dialysis. The 1972 regulations allocated proportionately less financial support for the patient on home dialysis than for one treated in a

Dialysis pioneer Willem Kolff: resourcefulness and cost efficiency are his trademarks.

The Man Behind the Machine

Discoveries of preventive cures like vaccines or the introduction of treatment therapies like hemodialysis often seem to appear out of the blue. We know, however, that these lifesaving advances are usually the result of decades of research and dedication. But what we often *don't* know is that peculiar circumstances and events, thoroughly unrelated to medicine, are sometimes responsible for shaping man's greatest medical successes.

The development of the first usable dialysis machine was dramatically influenced by events of World War II. Equally influential was the rather beleaguered life of its inventor, Dutch physician Willem J. Kolff.

On the day of the German invasion of the Netherlands, in 1940, Kolff was away from his post as a volunteer in internal medicine at the University of Groningen. He was in The Hague, with his wife, arranging for the funeral of her grandfather. While there, Kolff set up a blood bank in the city hospital, the first blood bank on the European continent. He would later remark that the blood-bank experience enhanced his ability to handle blood outside the human body, an indispensable skill in the administration of hemodialysis.

Upon his return to Groningen, Kolff found that the chief of the Department of Medicine, Prof. Pollack Daniels, and his wife had committed suicide, as they did not wish to live under German occupation. A gracious man, Professor Daniels had allowed Kolff the time and space to work on artificial-kidney research and development in the late 1930s. When the German occupiers appointed a Dutch National Socialist to take Daniel's place, Willem Kolff left for the city of Kampen.

At Kampen, as the head of his own department in a 90-bed hospital, Kolff determined that neither the Nazi occupation nor financial restraints would deter him from developing the artificial kidney. Using cellophane, enamel from the local enamel factory, wood from the local wagon-maker (aluminum was scarce), and water pumps and seals from the local Ford dealer, he built experimental artificial kidneys. This attention to resourcefulness and cost efficiency, induced by the war, would become Kolff's trademark for decades to come: his first artificial kidneys cost $200 to construct, and one treatment on these original machines cost only $2.

Still, during the war years, Kolff's machines could only prolong, but not save, a patient's life. Even the acutely ill—those whose kidneys had temporarily, rather than permanently, failed—would eventually die from complications unrelated, though peripheral, to this new medical procedure. Results were encouraging enough, however, to warrant the construction of eight machines, four of which were hidden around Kampen so that if bombs fell on the city at least one machine would most likely survive. (After the war, the machines Kolff had hid were sent to London, Montreal, and New York. One disappeared behind the Iron Curtain into Poland.)

In the final war years, dialysis progress was slow. Not only was Kolff isolated from the ebb and flow of worldwide medical research, but wartime demands gnawed at his time. He had become deeply involved in the politics of saving lives and promoting Dutch liberation. He hid Jews and members of the underground above the infectious-disease ward in his Kampen hospital. He screened thousands of his countrymen destined for deportation to Germany, removing the sick and lame from the convoys to an 800-bed Red Cross unit he headed in Kampen. And only months after liberation, in September 1945, Kolff cared for a patient who, in his words, was the first person to "owe her life" to the artificial kidney. He was able to stabilize the 67-year-old's blood chemistry by dialysis long enough for her to recover from acute kidney failure and other ailments. It is ironic that this woman was a Dutch Nazi, sent to Kolff from a prison for the "politically unreliable." Kolff himself admits that many of his own countrymen would have liked to kill her. Still, after she recovered, Kolff prevailed upon his friends in the underground not to send her back to jail. After saving the very first life with dialysis, however, he wondered if society had actually benefitted from the act.

In 1950 Kolff immigrated, with his family, to the United States, to practice at the Cleveland Clinic Foundation. To his shock and dismay, his $200 wooden dialysis machine had a $6,000 stainless-steel counterpart in the United States. For years thereafter, Kolff continually struggled to make dialysis inexpensive, by adapting washing machines and rocket nose cones to make simple, effective artificial kidneys. He has never believed that expensive, complicated equipment enhances treatment effectiveness or patient well-being. Conversely, he says that by assuming near-total financial responsibility for dialysis, the federal government has undermined efforts to keep treatments inexpensive.

In 1945, the artificial kidney saved this 67-year-old woman's life—the first to be saved by the machine. After treating her successfully, Dr. Kolff wondered if society actually benefitted, for the woman was a Nazi.

Today, Dr. Willem Kolff works at the University of Utah's Institute for Biomedical Engineering in the Division of Artificial Organs. At 73, his dedication to the quality of life of kidney patients remains unaltered: his latest project, "Dialysis in Wonderland," offers patients the opportunity to ride the rapids of the Colorado River, dialyzing on portable artificial kidneys that he designed.

Photographs courtesy University of Utah

dialysis facility. Though leasing costs were covered (at 80 percent), neither maintenance costs for dialysis equipment nor utility costs associated with running the equipment were. And many incidental supplies covered as a package in hospitals or independent centers had to be paid for by the patient when on home dialysis.

For the patient, this meant deciding whether the benefits of flexibility provided by home dialysis—among them not only convenience but being able to coordinate dialysis and a job—were worth the extra cost. Coupled with doctors' incentives to put patients in centers, these extra costs to the patient have resulted in a rapid and dramatic decline in patients dialyzing at home.

Perhaps the most tragic consequence has resulted from the incentive for doctors not to pursue transplantation as an alternative to dialysis.

Perhaps the most tragic consequence of the ESRD program from the patient's perspective has resulted from the incentives for doctors not to pursue transplantation as an alternative. To understand the magnitude of this consequence, it is necessary to know something about the quality of life on dialysis compared with life after transplantation.

A double-edged sword, dialysis is both a blessed lifesaver and a living nightmare. Without dialysis I would not be here. Still, the memory of those treatments, 99 exactly, lingers like a dreaded ghost from the past.

Dialysis treatments come with an array of side-effects, including painful needle punctures, nausea, dizziness, cramps, headaches, and general disorientation. Patients, stripped of their independence, put their lives in the hands of technicians and nurses, thrice weekly, usually for four hours each time. Besides the potential of human error, there is the chance of mechanical breakdown. For example, in October 1983, three Dallas patients died during treatment when an electrical problem caused their blood to overheat.

But what about the patient's well-being in-between treatments? ESRD victims I spoke with are bitter about living "empty," "dull" lives. They suffer chronic fatigue and feel "lousy all the time." Patients cannot travel without arranging for dialysis. One 40-year-old patient in Los Angeles told me that, after 12 years of dialysis, he lives his life in pain, cries himself to sleep, wakes up screaming in the night, and considers himself a "gone goose" if he doesn't get a transplant soon.

Patients' complaints confirm medical wisdom. Transplantation is such a desirable therapy for those who are candidates (by reason of age or relative lack of complications) because the artificial kidney is only a gross substitute for the real organ, and many secondary complications can result from long-term dialysis. Compared to dialysis, transplantation resembles a cure much more than a treatment. Indeed, physicians have noted that "when fully informed of the risks, patients would regard [transplantation] as their treatment of choice." Yet my survey of the transplant community and interviews with transplant coordinators and ESRD patients indicate that Congress indirectly created disincentives to transplantation in the 1972 ESRD provisions, even though funding for transplants was included.

Barbara Schulman, a transplant coordinator with Southern California's Regional Organ Procurement Agency (ROPA), noted that one-third of ESRD patients are candidates for transplantation. Yet the current transplant rate is about 8 percent! With improvements in technology and advances in immunology, she said the biggest hurdles to achieving a higher transplant rate are patient education about relative risks and benefits and public awareness of the need for donor kidneys.

Transplant coordinator Emi Yoshihara, also with Southern California's ROPA, told me that "nephrologists still tend to downplay the benefits and emphasize the risks of transplantation" for their patients. Yoshihara pointed a finger at "monetary government incentives for doctors to continue dialyzing their patients."

Patients I spoke with confirmed this picture by what they *didn't* know about the availability and benefits and risks of transplants. The patient education gap was painfully obvious to me by the time I visited my third dialysis unit. The very sight of a healthy transplant patient (me) seemed to lift patients' spirits and spark their curiosity. I found myself doing much more talking than I had planned on, as patients had dozens of questions about transplantation. I thought to myself: *This is the 1980s! Where is the patient education?*

I couldn't, and wouldn't dare, answer many of their specific medical questions and was quick to caution patients that my experience was one of the better examples of a successful transplant scenario. Still, they poured out the questions. I was shocked and dismayed that no nephrologist had offered to answer them.

I asked transplant coordinator Barbara Schulman if she thought the ESRD provisions tended to deter doctors from considering transplants for their patients. She responded, "I can't believe that with 6,000 dialysis patients in Los Angeles, less than 10 percent are on the transplant waiting list....It doesn't make sense that they are the only people who want transplanted kidneys." She observed that although "some nephrologists have hundreds of patients, they refer less than 1 percent of them for transplantation."

A statistic cited by Schulman added further evidence: There have never, during the past 10 years, been more than 400 people on Southern California's kidney transplant list, even though the ESRD population continues to grow. In essence, this means that despite important recent advances in transplant technology, the percentage of patients being referred for transplants is actually declining.

Of course, there is the much-publicized problem of the lack of kidneys for transplanting. But a patient isn't even close to getting a transplant if he isn't on a waiting list, and nationwide, I learned, there are only 10,000 patients on waiting lists—about 14 percent of the ESRD population. If patient education were what it should be, that percentage would at least approach the 33 percent estimated to be good candidates for transplants. As a patient who has experienced both dialysis and transplantation, it seems to me that the patient education gap is the most insidious unintended result of the program that taxpayers are underwriting.

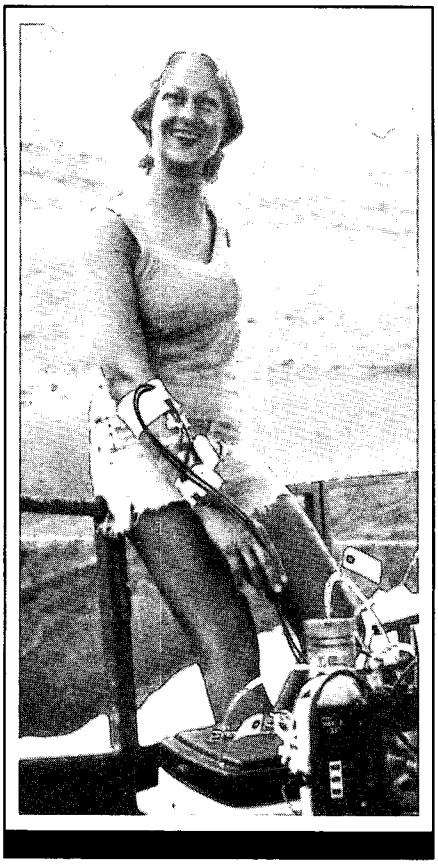
Some of the perverse disincentives to control program costs and provide each patient the form of treatment best suited to his situation did not go unnoticed by legislators, ESRD program administrators, health-care providers, or patients. Spiraling costs drew increasing attention to the program. By 1978, Congress finally attempted to revise it, passing a law mandating that administrators devise a reimbursement system that would assure more efficient delivery of dialysis services.

This broad directive could not immediately be implemented, however, since there were no cost data regarding the ESRD program! An audit of the seven-year-old system had to be undertaken to create a data base. Before all the audits were even completed, Congress passed another bill in 1981 amending the 1978 law. The new bill required separate reimbursement rates for hospital-based and independent facilities, instead of an incentive-based single rate. Furthermore, the bill expressed a preference for (but did not mandate) reimbursement formulas that would somehow improve incentives for home dialysis.

Hospitals, dialysis equipment manufacturers, doctors, and independent dialysis centers alike awaited the proposed changes with trepidation. Uncertainties abounded about whether the new guidelines might cut off what had been a very lucrative federal program. The uncertainty even affected the stock performance of dialysis enterprises. For example, the stock of the largest chain of dialysis centers, National Medical Care, fell from $26 per share in the spring of 1981 to $5.50 the following spring.

Finally, in early 1982, almost three years after Congress had first requested reforms of the ESRD reimbursement plan, Medicare administrators presented their new scheme. The proposal reduced from $138 to $128 the reimbursement ceiling for independent facilities. The hospital ceiling was set at $132. All facilities would receive the same rates whether they treated patients in dialysis centers or leased them equipment for home use. Doctors would receive per patient fees based on approximately 12 monthly visits, rather than 20, as previously mandated. Moreover, they would receive the same fee whether they treated patients in a dialysis facility or put them on home dialysis.

A slightly modified version of this proposal was finally implemented in May 1983. It is too soon to tell exactly how the new guidelines will affect costs and treatments. However, initial signs are ominous. For example, a report by the House Committee on Government Operations in October 1982 expressed grave doubts about the new ESRD guidelines. The report noted that the audits done by the Health Care Financing Administration (HCFA) to obtain a data base for its new reimbursement system were "seriously deficient." Auditors did not perform on-site audits. Instead, they did desk audits that could not possibly have insured that reported costs were accurate. As a result, HCFA did not have reliable data on: (1) the comparative costs of home and in-center dialysis; (2) the comparative real costs of hospitals compared to independent dialysis centers; and (3) the real costs of dialysis supplies.



Using Dr. Willem Kolff's portable kidney machine, patients can travel and work more easily. But the government-funded system stifles such innovations.

It's not clear what difference good data would have made, however, for HFCA's proposed guidelines ignored the information it did have. For example, although a survey showed that doctors visited patients no more than five times per month, doctors would now be reimbursed based on approximately 12 visits. The rationale for this proposal was that HFCA did not want to encourage doctors to attend their patients as infrequently as they do! All available data suggest that *no* doctors see their patients at every dialysis session, because it simply is not necessary for this routine technical procedure.

To arrive at the new ceiling reimbursement rates for hospitals and independent facilities, HCFA engaged in little more than statistical gymnastics. Nothing in its data provided any sound basis for setting the hospital rate at $132 ($131 in the final guidelines) per treatment. HCFA's own cost figures suggest that 50 of 64 hospitals for which it has any information will suffer losses under the new rate. Other figures suggest that hospitals so overreported their costs prior to the new legislation that they will still be able to make ends meet at the reduced reimbursement rates. In any event, one authority who asked not to be identified told me that the new scheme is merely motivating hospitals to shift losses from dialysis incurred under the new system onto other patient groups, rather than really forcing them to cut costs.

Even if the new reimbursement scheme somewhat restrains costs, other nettlesome problems persist. Congress wanted to encourage home dialysis, and so doctors and centers are reimbursed whether patients are on home dialysis or in-center dialysis. But data suggest that home dialysis is not always less *costly*. Thus dialysis facilities may still be deterred from sending patients home to dialyze. Patients, once again, end up the losers in quality of life.

Nor is there any incentive under the new guidelines to utilize new treatment modes, whether they are cost-saving or more liberating for the patient. The whole system, typical of government-planned programs, is based on current practices and current assumptions about costs, patient needs, available equipment, and so on.

One nephrologist, for example, told me that, with modern equipment, many patients could easily get along on two dialysis treatments per week instead of three. But ESRD regulations are based on the assumption that patients will receive three treatments per week, and that practice routinely continues. Why should a doctor or a patient or a center risk any changes when a willing payer stands at the ready?

Or consider how the system stifles equipment innovations. Kidney-machine inventor Dr. Kolff has now developed a portable dialysis machine that would enable patients to travel, work more easily, and generally lead more-productive, normal lives. But Kolff told me that he is unable to get any American manufacturers interested in making the machine.

The problem is uncertain demand. Prototypes have been made for $6,000 each—the same cost as American machines used in dialysis centers when purchased in volume. Although Kolff's

Photograph courtesy University of Utah

machine could provide dialysis patients with more-satisfying lifestyles, neither nephrologists, equipment makers, nor facility operators have much incentive to introduce their patients to the machines, since it is not clear how they would fit into ESRD reimbursement provisions. So Kolff has gone to a Japanese manufacturer to supply him with prototypes.

What innovations *have* occurred under the ESRD program have generally fit neatly into the treatment package envisioned under the original funding. An example is the introduction of "reuse." Instead of one-time use, the coil through which blood passes is cleaned with formaldehyde after each treatment and reused. By the beginning of the 1980s, reuse had become popular as a cost-cutting measure (it can cut per treatment costs by $10-$15).

Most experts seem to agree that reuse, done properly, does not jeopardize the quality of care. (One study even suggests that it can improve the dialysis process.) Testimony from patients, however, paints a different picture.

An elderly patient in Los Angeles nearly blew her top when I mentioned reuse. "My clearances [measurements of treatment effectiveness] were much better before we went on reuse," she insisted. "The government cut back its funding, and you know doctors and owners of these dialysis units aren't going to shoulder that burden. The patients are the ones who suffer." A 53-year-old patient, fighting back tears, told me she had a reaction to formaldehyde (used in cleaning the coils) that almost killed her.

Whether or not these patients' testimony accurately assesses reuse, their fears and sense of helplessness point to a key problem in government funding of health care: government influencing the nature of care. "The customer is always right"—but the customer is the government, not the patient.

Ultimately, the government's influence extends to the most fundamental level. "The ESRD program," notes nephrologist and critic of the program Dr. Saijan Dharnidharka, "amounts to deferring to the government questions about who should live and die." Indeed, events leading up to passage of the ESRD program in 1972 suggest that public discomfort with such choices being made at all was a significant factor in the move to government funding.

The problem is, says Dharnidharka, that "government either decides too harshly or too liberally." Either too few patients are treated, or treatment is extended to everyone, unnecessarily in some cases. Moreover, as scrutiny of the ESRD program reveals, patients are channeled into a rigidly defined program that distorts cost, retards innovation, and circumscribes choice of treatment.

The kidney-machine nightmare is more than yet another bad dream involving a costly government boondoggle.

The dilemma for reformers is that these consequences are inevitable—there is no way for *government* to adequately make decisions about *individuals'* health care. The solution, notes Dharnidharka (though one can be certain that his is not one voice among many in his profession), is to "promote competition and give everyone the right to choose his own destiny."

Under the ESRD program, I received 99 dialysis treatments and one kidney transplant without ever seeing a single bill. I have no idea how much my treatment cost or who paid for what. I signed a lot of papers, and that was that. What would have happened to me, and to thousands of other victims of permanent kidney failure, had the ESRD funding program never been adopted?

Consider, first, the issue of payment. Hemophiliacs, cancer victims, patients requiring heart bypass surgery or even heart transplants—these do not generally receive their health care at the expense of the taxpayers. Experience shows us that as treatments for various illnesses become less than experimental, private health insurers begin to cover many costs. In fact, this was already occurring with dialysis when the government took on funding in 1972.

And there can be little doubt that in the absence of government funding, the total cost of health care for the ESRD population would be far lower than it is today. Without disincentives to home dialysis and transplantation, these potentially cost-saving treatments would be more prevalent. The 40 percent home-dialysis rate prior to passage of the ESRD bill points strongly in this direction. And health insurers, seeing the potential savings in transplants compared to year after year of dialysis, would no doubt promote the transplant alternative—for example, by requiring that every dialysis patient be evaluated for transplantation.

Without the ESRD reimbursement structure, innovations such as Dr. Kolff's portable kidney machine would have a better chance of competing with other alternatives. For anyone who has been tethered to a dialysis machine for four hours at a time, three times a week, in a sterile hospital, at the hospital's convenience, that is an inviting prospect. And the cost of such innovations could be expected to drop as they came into greater use and could be produced in volume. But as it is now, Dr. Kolff can't even get a US manufacturer interested!

Finally, there would likely be greater emphasis on research to solve the problem of kidney failure. While government funding has been aimed at treating the symptom, with only 2 percent of ESRD expenditures going toward research, private-sector groups are deeply involved in solving the problem at its source.

For example, since 20-25 percent of all new ESRD patients have lost kidney function because of diabetes, it is reassuring to know that the American Diabetes Association is dedicated to raising $100 million for research in the 1980s. And since high blood pressure is another leading cause of kidney failure (about 12 percent), it is comforting to know that the American Heart Association spent $106 million on research in 1983.

Nongovernmental alternatives to the ESRD program are credible. Kidney patients would not be left in the lurch if taxpayers were not burdened with this program, with all its inefficiencies and waste. But the kidney-machine nightmare is more than yet another bad dream involving a costly government boondoggle. Kidney patients themselves stand to gain a great deal if, in the words of Dr. Dharnidharka, we were to "promote competition and give everyone the right to choose his own destiny." ◧

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REINING IN THE IMPERIAL CONGRESS

Members of Congress couldn't wreak as much havoc if we limited them to one term.

By Jack Douglas

The 22nd Amendment to the US Constitution limits the president to two full terms. Before this amendment was passed in 1951, some commentators—many nostalgic for Franklin D. Roosevelt's four terms—warned of dire consequences from the restraints it might place on the presidency. But the executive branch has not foundered because of the amendment. On the contrary, a large body of opinion today favors curtailing even further the powers of what historian Arthur Schlesinger, Jr., dubbed the imperial presidency.

New restraints, especially on the money-creating powers of government, are indeed needed. But there is an even greater need today for more restraints on our imperial Congress. Our representatives and senators have been just as eager as our recent presidents—often even more eager—to expand the already gargantuan expenditures and powers of government.

Shortly after the Reagan administration took office, House Speaker Tip O'Neill called a well-publicized "summit meeting" with the president of all the American people. The president had to go to O'Neill, symbolizing his role as supplicant. The president reportedly pleaded for budget cuts and offered various compromises on his own program, but the speaker of the House turned him down—and the great pork barrel rolled on.

This episode points to a problem found in both the House and the Senate, but especially the House. The Founding Fathers gave the House the dominant power over taxation precisely because its members were to be elected directly by the voters (and for only two years at a time). The Founding Fathers figured the people would be led by their own self-interest to elect representatives who would keep taxes to a minimum. And at first they did. For well over 100 years, federal taxation in peacetime was almost never more than 2.5 percent of the Gross National Product. Today, however, it is almost 10 times that if "off-budget"—that is, hidden—spending is included.

What went wrong with the Founding Fathers' plan? What produced this sea change in the trend of congressional actions? As usual, there are a number of factors involved, but the critical difference has been the growth of concentrated power both in the House committees and subcommittees that handle virtually all bills before that body and in the House leadership that coordinates the committees. The crucial factor responsible for this concentration of power has been the growing tenure of members of Congress.

The increasingly long terms of congressional office have an explanation. Back in 1910, members of Congress staged a dramatic revolt against Speaker Joseph "Czar" Cannon, one of the most authoritarian speakers in the history of the House. Cannon had single-handedly picked the members and chairmen of all the House committees, rewarding his friends and punishing his enemies. When his power was finally broken by the revolt, the speaker's prerogatives were permanently reduced and Congress adopted a new system—it began assigning committee chairs and slots according to members' seniority.

There is little question that the new system was a vast improvement over Cannon's ruthless political machine, but seniority was far from ideal. The new criterion for power in the House was no longer loyalty to the speaker but longevity in office. It wasn't long before congressmen responded to the incentives to hold on to their seats. Length of tenure grew remarkably, especially for members of Congress fortunate enough to represent districts where they had little opposition, such as in the "solid South."

Few states' representatives exploited the new system as thoroughly as did those hailing from Texas. By the time Lyndon Johnson was first elected to Congress in 1937, two of his fellow Texans had been in Congress for 24 years each, and two others for 20 years each. John Nance Garner, the vice-president at the time, had been a Texas congressman for 30 years, eventually winning the speaker's chair. And Johnson himself succeeded a 24-year veteran who left office only via death.

All this Texan tenacity was not in vain. For decades, Texas enjoyed vast outpourings of federal largesse—contracts, military installations, water projects, and subsidies of every variety. Texans have the seniority system, and some exceptionally crafty politicians who knew how to exploit it, to thank.

The long tenures that followed the 1910 reforms were in stark contrast to those in the 19th century. Congressmen then, like presidents, expected to serve only one or two terms. Former Rep. Richard Bolling (D-Mo.) gave some indicative figures in his 1969 book, *Power in the House.* Until 1901, in an average Congress, first-term members accounted for 30 to 40 percent of the entire membership in each house. And in most of those Congresses, the percentage actually ranged from 40 to 60 percent. Moreover, House members' average tenure *never* rose above 2.9

terms (5.8 years) until this century and was usually below that figure.

Although a very few congressmen did serve long terms, almost none were professional politicians like the great majority are today. Nearly all of them observed Andrew Jackson's doctrine of "revolving" political offices, which reflected the view that the nation was best served by letting as many leaders as possible serve the public.

New blood, it was argued, would tend to produce creativity and dedication and prevent the entrenchment of vested interests that breed corruption. Brief tenure would also keep politicians relatively close to the voters. Above all, it would offer no opportunity to use a congressional seat to maximize their own power by milking interest groups and the public. So-called robber barons might corrupt state legislators with long tenure, but representatives were gone from Congress before they had much chance to feather their nests.

Abraham Lincoln served as a representative from Illinois for only one term (1847-49) and did not run for reelection because "it was someone else's turn to run." In the same way, speakers took turns, so that very few held power for more than one session and only one did for three sessions (Nathaniel Macon, from 1801 to 1807).

After the "revolt" gave power to seniority, all of this was turned on its head. Czar Cannon's successor as speaker, Champ Clark of Missouri, may not have had Cannon's power over the committees, but he still served four consecutive terms. Sam Rayburn was speaker for 17 years altogether (1940-47, 1949-53, and 1955-61)—a record. In the last century, that would have been unheard of. Contests for the speaker's position were vigorously fought in the 1800s, but today, the selection of the speaker is a foregone conclusion. (Within the party caucuses that elect speakers every two years, incumbent speakers haven't faced a serious contest for reelection in decades.)

Incidentally, congressmen in the 1800s might have been scandalized or perhaps envious to learn that with only one exception (Carl Albert of Oklahoma), every speaker since 1940—Democrat and Republican alike—has come from either the Boston area or Texas. Tip O'Neill of Cambridge, Massachusetts, is widely ex-

Illustration by Dave Curtis

pected to retire as speaker in 1985 or 1987, hoping to close his public career as ambassador to Ireland; and his heir-apparent is Majority Leader Jim Wright of (where else?) Texas.

While the leadership has consolidated its power, the rank and file has followed suit. In this century, the average tenure of representatives has soared. Former Representative Bolling, who pointed out the short tenure of 19th-century representatives, noted that his colleagues in 1969 had been in office an average of 11.2 years, up from 5.8 years in the previous century. The average in 1981 was 9.8 years. And Morris Fiorina wrote in *Congress: Keystone of the Washington Establishment*, "Since World War II nearly 90% of all incumbents have sought reelection in any given election, and approximately 90% of all those who ran were successful."

Republicans might like to comfort themselves with the notion that since the House has usually been controlled by Democrats in recent years, a change in party control of Congress would improve the well-being of taxpayers and citizens. But that is a specious conclusion. Even in the minority, Republican legislators have participated in the system just as enthusiastically as Democrats. After all, when Senate Republican leader Everett Dirksen joyously observed of his colleagues, "None retire, few die," he was not referring exclusively to Democrats.

As former Treasury Secretary William Simon, a Republican, said so forcefully in 1978 in *A Time for Truth*, the ratchets-up in bureaucracy, taxes, deficits, and inflation that produced our economic mess were generated by both parties. This is indeed a time for truth, and the truth is that *anyone*, whether saint or sinner, would be sorely tempted by the spoils system made possible by long tenure in office and the power it produces. Any saints who don't comply are usually ousted by willing sinners—or "pragmatists." And the pork barrel rolls on.

Saint or sinner, anyone would be tempted by the spoils system made possible by long tenure.

The strategic connection in all of this is that the increasing seniority of representatives after the revolt of 1910 meant that special interests of all kinds had an increasing incentive to support the members of Congress with the most tenure, offering campaign contributions, influence, and votes. So they did. That in turn gave members of Congress a greater chance to be reelected and thus to increase their tenure. And this provided them increasing incentives to support special interests over the general, public interest. So they did.

The real sharpies in both House and Senate soon discovered the miracle of power-through-milking. Each time they passed a new regulation and authorized a new bureaucracy to interpret and enforce it, they created new victims and victors. Regulations exact a price from some members of the population. They also enrich by throwing the mantle of government protection and subsidy over special interests. Many victims and victors long ago saw the handwriting on the pages of the *Federal Register* that records all bureaucratic promulgations. Its length mushroomed from 10,528 pages in 1946 to 57,704 pages in 1983. That helped to sink our once high-flying economic miracle into the morass of decline—but it was a wonder drug for drooping representatives, senators, and bureaucrats.

Legislators and their burgeoning staffs (from almost nothing in 1900 to 2,344 in 1960 to about 12,000 now) make the laws, appropriate funds for the bureaucracies, and authorize the bureaucrats' paychecks. Thus the now-infamous Iron Triangle—Congress, interests, and bureaucracy. Congress passes regulations enforced by bureaucrats. The victims appeal to their representatives for help. The representatives then appeal very quietly and discreetly to the bureaucrats, who see the budgetary bottom line writ large every year and help the victim accordingly. Chalk up one more satisfied customer of "constituency service," one more milking session, and lots more votes.

After considering solutions to this Iron Triangle, Fiorina for one has reached the sad conclusion that almost no new reform will work. In fact, reforms are usually written into law by the representatives, who "reform" themselves into more tenure and power. In the wake of the Watergate scandals, Congress passed a law in the name of "election reform." It limited campaign contributions—and thus reduced the chance of a successful challenge to any entrenched incumbent. Congress, meanwhile, was steadily increasing its use of the franking privilege—not counted as a campaign contribution—to send mail to voters postage-free. Frank mail has nearly doubled in the last 10 years to 566 million pieces annually.

But I submit that there is a simple change that would work: *a constitutional amendment to limit all House and Senate members to one term.* There is no rational argument against it.

Members of Congress would scream that expertise is needed to run such a monstrous government, but everyone knows that's blarney. Our presidents run the whole monster, as much as anyone can, with the help of bureaucrats and public advice. No legislator needs one percent as much expertise as the president.

Besides, who needs or wants this monster? It wasn't complexity that created tenure and concentrated power. It was tenure that created the complex monster in the guise of "necessities of state and welfare." If this institutional reform—the one-term Congress—were combined with other basic reforms reining in our Frankenstein state, America might once again be the land of truly representative government, and thus a land of milk and honey.

Does it sound too simple to be true? *Real* reform is always simple. Ending tenure would take the profit out of politics and return Congress to the business of advancing the *general* welfare. ◻

Jack Douglas is a professor of sociology at the University of California in San Diego. *He acknowledges a conversation with legal and historical scholar Laurence Beilenson as the source of the idea for reform discussed here.*

It was the fall of 1976. I was part of a small group entertaining the leader of Britain's Conservative Party, Margaret Thatcher, at dinner in a private room at the Cafe Royal in London's West End.

After dinner the conversation moved from economic freedom to matters of personal freedom. It was a natural development, since the host for the evening, an aspiring Member of Parliament (MP), believed that economic and personal freedoms are inseparable and indivisible. And he perceived that the "libertarian" right of the Conservative Party was supporting economic freedom while either ignoring or being openly hostile to questions of personal freedom.

He began to explore this matter with Thatcher and illustrated his theme by advocating the legalization of marijuana. Thatcher was completely and utterly appalled. Sensing he was on rocky ground, our host moved away from the philosophical case to a more practical approach. Marijuana, he claimed, was freely available, so why not recognize reality? He knew at least one person who sold the substance.

"My personal detective is sitting outside that door," said Thatcher. "Call him in and give him this dealer's name and address."

Our host changed the subject, and Thatcher let the matter drop. The detective was never called in, Thatcher went on to become prime minister, our host's aspirations to a seat in Parliament were fulfilled—and the dope dealer is probably still in business.

I met Thatcher many times over a period of 10 years from her days as education secretary and later shadow environment secretary to her time as leader of the opposition and later prime minister. My view of her has been shaped by those many glimpses of her political development.

Opinions on Margaret Thatcher among American conservatives and libertarians tend to fall into one of two groups. Either she is viewed as the best thing since sliced bread, a crusading antistatist who is creating a new climate of freedom and free enterprise, or she is a typical politician, knee-deep in broken promises, who has failed to cut taxes, reduce expenditures, dismantle the state, and restore freedom. But I must say from my personal knowledge and observation that neither view is correct.

It's now been five years since Thatcher was first elected prime minister and it seems an appropriate time to assess her personal philosophy, promises, and progress. But before that can be attempted it is necessary to understand the decades leading up to her election as Conservative leader in 1975 and her election as prime minister in 1979 and 1983.

WHAT TO MAKE OF MA

Photograph courtesy British Information Office

RGARET THATCHER?

By John Blundell

In five years as Britain's prime minister, she's broken with forty years of British politics.

"One of the great errors of our time is to equate the community aspect of our lives with the power of Government exercised through bureaucracy. It is one thing to say that we all have a duty to look after our less fortunate fellows . . . and quite another to imply that this duty can always be most efficiently performed by delegating it to the State."

During World War II, the level of government control of the British economy exceeded that of National Socialist Germany. Sixty percent of all production went to the state; five and a half million men and women were in the military; 40 percent of the working civilian population—and there was zero unemployment—was involved in war production; rationed goods absorbed over a third of after-tax income; and a worker could not change jobs without a government permit. So many people were involved in so many ways that it was known as the "people's war."

On top of this large-scale collectivism, the 1944 Beveridge Report on social security proposed state support "from the cradle to the grave." Memories of the depression that had followed World War I were very much alive. In 1918 the troops had been promised a return to "a land fit for heroes," not unemployment; and this second time around people were not about to be "cheated." Strong central control of all aspects of the economy was perceived to have pulled the country through six years of war; now, so people thought, a strong state could turn the "people's war" into the "people's peace."

Influenced by Friedrich Hayek's free-market classic *The Road to Serfdom*, Winston Churchill based his 1945 election campaign against the Labour Party on a vehemently antisocialist platform. Socialism, he said, is "inseparably interwoven with totalitarianism." To implement a socialist program, one would have to "fall back on a form of Gestapo."

Yet throughout most of the war, the Labour leaders had been in Churchill's coalition cabinet, running the country while he ran the war. There had been no "Gestapo," his charge made no sense, and Labour romped to power.

The new government of Clement Attlee kept the war-time controls and sent John Maynard Keynes to America to secure new loans. It nationalized the Bank of England, road transport, the railways and independent domestic airlines, iron and steel, and the fuel and power industries. The Beveridge Report was implemented with three major welfare bills passing through Parliament. Just as World War I had earlier served as a training ground for those who later administered the New Deal in America and the corporatist policies of the British government of that time, World War II led to the establishment of the welfare state and strong government control of the economy in the United Kingdom.

During the six years from 1939 to 1945, Keynesian doctrines of government management of the economy had completely conquered British academia and opinion-forming circles. Hayek now believes that in 1939 he still had a good chance of defeating such views, but by 1945 the war had reduced his chances to all but zero. War-socialism had ensured the Keynesian victory.

However, huge shortages rapidly emerged. Bread was suddenly rationed for the first time. Two months after coal was nationalized, there was no coal. Newspapers were limited to four pages. For five hours every day there was no electricity. Many ration levels were reduced. And it became a criminal offense to turn on a fire in summer.

Despite such moves, Labour hung on to power in the 1950 elections. It was not until 1951 that it was ousted. Labour promised more of the same, including nationalization of cement, insurance, and sugar. The Conservatives ("Tories"), Labourites said, would bring unemployment, whereas Labour would guarantee "a fair share at a fair price" for everyone.

The Tories' 1951 campaign was helped not only by the failure of Labour's programs but also by a strongly ideological antinationalization campaign run by Tate and Lyle, Britain's biggest sugar manufacturers and refiners. It used "Mr. Cube"—a cartoon cube of sugar to which were added arms, legs, and a smile—to impart its free-enterprise message. Churchill himself talked of "bonfires of controls" that would "set the people free." But many of the newer, younger MPs first elected in 1945 and 1950 had other ideas. One such was the 1947 Industrial Charter, which paid lip service to lower taxes and reduced controls but proposed wage fixing, accepted much of Labour's nationalization, and advocated a strong dose of central direction of the economy to engineer full employment.

The Tory party had accepted the creation of Labour's welfare state and the mixed economy, with many industries exclusively in state hands, as well as a strong role for central government in economic management. There was only a vestigial adherence to the free market, hence Hayek's 1944 dedication of *The Road to Serfdom* "to the socialists of all parties."

For 28 years, from 1951 to 1979, this social-democratic Keynesian consensus reigned supreme and did not even begin to crumble until the 1970s. As a leading British journalist and commentator, John O'Sullivan, recently stated, "It was a case of Tweedledee and Tweedledumber." The differences be-

Photograph courtesy British Information Office

tween the right of the Labour Party and the left of the Conservative Party were so small that a new word, Butskellism, was coined to describe this middle-ground consensus. It came from the names of R. A. Butler, a senior Conservative cabinet member, author of the Industrial Charter, and leader of the Conservative left, and Hugh Gaitskell, the leader of the Labour right and the man who replaced Attlee as Labour leader.

Under the Conservatives, government expenditures as a percentage of gross national product moved past the 30 percent mark and up to the mid-40 percent level. A critical moment came in January 1958 when the cabinet's "taxing ministers" tried to stand up to the "spending ministers." They wanted to control the money supply, reduce public expenditure, and cut taxes. They lost and resigned. Such was the consensus view of the time that Prime Minister Harold Macmillan was able to dismiss the whole affair as "a little local difficulty."

Beneath the surface, however, significant changes were rumbling. The Labour Party had always had its radical left wing, a fact the Tories exploited with election slogans such as "Socialism Leads to Communism." So the Labour Party leadership kept radical-left infiltration to a trickle through the 1950s and 1960s. But the trickle turned into a tsunami in the early 1970s. Leftists moved into Labour's local constituency party organizations, gained control, either waited for the sitting MP to retire or refused to reselect him, and then put their own person in place.

The result has been an increasing percentage of leftist Labour MPs with every recent election. This shift is, of course, reflected in the Labour leadership, as well. After a succession of right-wing leaders—Attlee, Gaitskell, Wilson, and Callaghan—the leadership of the party, and thus the position of de facto prime minister in waiting, has passed to the left in the form of Michael Foot and more recently Neil Kinnock.

Changes were also taking place within the Tory party. In the mid-'50s a young independent businessman, Antony Fisher, went to see Professor Hayek to tell him that he wanted to get into Parliament and promote Hayekian, free-market policies. Hayek very wisely suggested he forget about a political career and instead found an institute to promote market-oriented alternatives to the prevailing views. Fisher took the advice and in 1957 established the Institute of Economic Affairs (IEA) in London.

The task was immense. Even the leader of the Conservative Party and prime minister at the time, Harold Macmillan, described laissez-faire as a "cold old doctrine" against which he reacted "violently and instinctively."

For many years, the IEA was a lone voice for the marketplace, but it produced a steady stream of high-quality scholarly and policy papers. Gradually a nucleus of academics, businessmen, journalists, young people, and others began to form around it, spreading its message throughout opinion-forming circles. Throughout the 1960s and 1970s the impact of the IEA's work on the climate of opinion became increasingly apparent. The names of economists F. A. Hayek, Milton Friedman, and other scholars began to appear in the press, in motions at Tory party conferences, and elsewhere.

In 1970 the Conservatives came back to power, this time on a platform of ending subsidies to "lame duck" industries, lowering taxes, and imposing fiscal responsibility. This was the famous Selsdon Park manifesto, so called because it was drafted by the shadow cabinet during a weekend retreat to the Selsdon Park Hotel. Unfortunately, it was rapidly abandoned. Subsidies to faltering industries not only continued but increased, denationalization was limited to a handful of pubs and a travel agency, Rolls Royce was nationalized, and the money supply was exploded in an effort to reflate, or "dash for growth," as Conservative Prime Minister Edward Heath was to say.

But Heath began to face growing ideological criticism within his own ranks. The Selsdon Group was formed to fight to preserve the spirit of the 1970 manifesto, and when Heath—following in Richard Nixon's footsteps—introduced price and wage controls, he had to overcome a barrage of opinion both in certain newspapers and within his own party.

Heath's downfall, however, came from his all-embracing attempt to legislate on trade-union matters. Special courts were established, trade unionists were imprisoned for strikes and other industrial action prohibited by the National Industrial Relations Court, and an acrimonious fight over pay developed with the National Union of Mineworkers. Heath went to the country on the platform "Who rules: The unions or the government?" and he lost. Within nine months, he lost again when a second election was called to solidify Labour gains.

The results were many and varied. First, the middle-of-the-road social-democratic consensus was smashed. A union had taken on the government and

"I would like the Governments I led to be seen as those which decisively broke with a debilitating consensus of paternalistic Government and a dependent people; which rejected the notion that the State is all-powerful and the citizen is merely its beneficiary; which shattered the illusion that Government could somehow substitute for individual performance."

Photograph by Belfast Telegraph Newspapers / Courtesy Conservative Central Office

"My belief in free competitive economic enterprise does not rest solely or even mainly on arguments of economic efficiency, though, heaven knows, these are cogent enough. It rests essentially on the view . . .

thrown it out. The new, more left-wing Labour administration was in power as a direct result of this controversy. Unlike previous periods when the Labour Party was in power—1945-1951 and 1964-1970—it was no longer in partnership with the trade unions as a major part of the broader Labour movement; rather, the party was the pawn of the unions. Reg Prentice, a member of that Labour cabinet who later joined the Conservative Party, tells how lawyers retained by the Trades Union Congress drafted whole acts of Parliament that were presented to the cabinet on a "take it or leave it at your peril" basis.

Second, the middle class and the small-business communities were not merely alarmed but scared stiff by this display of union power. Organizations were formed overnight, attracting tens of thousands of members and joining in the fray. One, the Freedom Association, began taking trade-union abuses and other matters to court. For example, it was successful in having the closed shop virtually outlawed in Britain by the European Court of Human Rights.

New small-business groups such as the National Federation of Self-Employed began to campaign and lobby, taking for the most part a rigorous free-market policy stand. The Adam Smith Institute, inspired by the United States-based Heritage Foundation, was established and began to lobby actively for free-market policies.

Sir Keith Joseph, the most senior member of the Heath cabinet who was not considered a Heathite, and his close friend Margaret Thatcher founded the Center for Policy Studies (CPS) in 1974. It was "to study economic and social policies" with a commitment to "extend the liberty of the subject." Its view has always been that "the market is vital to prosperity" and that "freedom reflects a concept of society as organic and largely spontaneous." Although it acknowledged that the post-World War II bipartisan approach to a highly controlled economy had been very damaging, it explicitly stopped short of laissez-faire.

Third, the two election defeats of 1974 meant that Heath, who had also lost in 1966, now had a 1-to-3 win-loss record. In early 1975, new rules for electing the leader of the Conservative Party were brought forward. Margaret Thatcher proceeded to fight and win the leadership on a clear platform: a commitment to individual freedom and private enterprise, the maintenance of law and order, the wide distribution of private property, and a belief in hard work, thrift, reward for effort with lower taxes, and a "duty and responsibility to care for others." As a former member of Heath's cabinet, she accepted some of the blame for the policy U-turns of 1970-1974 but, unlike Heath, seemed prepared to learn from them. Instead of merely promising to halt the country on its slide towards socialism, she promised to reverse direction.

Her election in 1979 was the final nail in the coffin of the old social-democratic Keynesian consensus. The ideas of the Institute of Economic Affairs and other market-oriented groups had permeated to many parts of the Conservative Party, the media, and other opinion-molding groups. Free-market economists Hayek and Friedman, both Nobel Laureates by now, had become all but household names. Labour leaders received prominent coverage for attacking Thatcher for being "in the grips of a mad Austrian economist." Even the *Sun*, Rupert Murdoch's racy tabloid newspaper more famous for its bare bosoms than its intellectual content, ran a headline, "Who the Heck Is Hayek?"

Sir Geoffrey Howe, the new chancellor of the Exchequer, commented that Hayek's *Road to Serfdom* was the most influential book he had ever read. Sir Keith Joseph, the new secretary of state for industry, spoke weekly on campuses across the country quoting both of the Nobel Laureates. And Mrs. Thatcher listed Hayek's *Constitution of Liberty* and Adam Smith's *Wealth of Nations* among the three books to have most influenced her political philosophy.

The "winter of discontent" immediately preceding the election, a winter that had seen unions causing unprecedented levels of disruption, put her in an enviable position. The British public at large was heartily sick of such excesses. Many who had voted Labour in the past because "they can work with the unions and the Tories can't" now realized that not even a socialist administration living in the pockets of the union bosses could guarantee industrial peace.

The new administration Thatcher formed had to reflect a broad cross-section of opinion within her party, and the Conservative Party is a broad church. People hostile to her politically and personally were included in the cabinet. Experience and success (coupled with the petulance of left-wing Conservatives and their lack of ideas and organization) has allowed her to change the composition of the cabinet significantly in her favor. "Wets"—those who want to return to the middle-of-the-road consensus of the 1950s and 1960s—have been dropped or moved sideways to non-economic positions. In their place, she has promoted "Drys"—supporters of sound money, balanced budgets, and the free market.

Important as such changes have been, the past five years of Thatcher cabinets have also seen two more changes of major long-run importance. First, prior to her victory in 1979, every postwar British cabinet had been made up exclusively or overwhelmingly of men and women who had participated either as civilians or in the military during World War II. If they had not been fighting soldiers, seamen, and airmen, they were at least functionaries of the Ministry of War Production or majors in an army supply division or some such. They had had firsthand experience of being small cogs in a big centralized war effort, and their propensity was almost invariably to want to be big cogs in a centralized peace effort. Since 1979, that has changed. A majority of Thatcher appointees were simply too young to have been involved in World War II. A new, unencumbered generation has come to the fore.

Second, the dominance in the cabinet of Eton and Harrow and Oxford and Cambridge is very much on the wane. A Thatcher appointee is just as likely to have attended a local government-run high school (as she did) as a private school. And while a Thatcher appointee will probably have attended Oxford or Cambridge, he or she would have gained admittance (again, as she did) purely on merit. She is in fact an arch meritocrat who identifies closely with people whose careers in some way parallel her own—working- or lower-middle-class background, local high school, Oxbridge or the equivalent, and a "real" job. The result, reflected throughout the Conservative members of Parliament, is a more independent, harder-nosed breed of politician.

How much did Thatcher's first administration achieve? On the positive side, one can point to some deregulation, denationalization, the start of privatization of local government services, the sale of public housing, a tough attitude toward the European Economic Community, cuts in top tax rates and in the size of the civil service, and a surprising degree of mastery of the trade unions. On the negative side, however, are her early failure to bring spending and borrowing down and the substantial increases in welfare and defense spending.

Exchange controls, price and wage controls, dividend controls, and credit controls—all were swept away. Heads of nationalized industries were told to put their houses in order, and many have done so. Once in order, they have been brought to the market and sold off (for examples of this, see my article "Margaret Goes to Market," REASON, Feb. 1982). State monopolies such as the ones on the supply of gas and electricity and on scheduled bus service were broken.

The concept of privatization of local government services moved from total obscurity to a trend and almost to a fashionable craze, in part because of the work of the Adam Smith Institute. Tenants in all public housing were given a right to buy such properties at discounts ranging from one-third to one-half off the estimated market valuation. This opportunity transferred over half a million housing units from the public to the private sector, is continuing to move such units, and is having a remarkable effect on the outlook of a new class of property owners.

While the British government under Thatcher has remained committed to membership in the European Economic Community (EEC), it has done so in such a way as to placate the overwhelming majority of British people who are very unhappy with British membership in the EEC. The Thatcher government has consistently negotiated the level of British contributions down and has taken a reasonably tough attitude on the thousands of pages of regulatory nonsense issued from EEC headquarters in Brussels. Thatcher herself has made it quite clear that she wants to see the Community move much closer to the ideals of the Treaty of Rome that created the EEC—free trade and the free movement of goods, services, labor, and capital.

Thatcher's government has slashed the top marginal tax rates. On investment income, the rate came down from 98 to 75 percent and on earned income from 83 to 60 percent. The basic rate of income tax was cut from 33 to 30 percent. The number of civil servants was also cut by 14 percent over a five-year period.

Her mastery of the unions stems from a number of factors. One must look to the unions themselves—their growing unpopularity, declining membership, and hostility to technological progress. But important also have been record levels of unemployment and Thatcher's overall strategy of eschewing an all-embracing approach and legislating against specific abuses.

Perhaps her greatest success, though, has been the way she has picked a few basic points and hectored and nagged all sections of the population to such an extent that once-unfashionable views are now accepted as truths. Take as an example the question of deficit spending to fuel growth and douse unemployment.

For close to 10 years she has subjected such ideas to constant abuse, using plain, simple language and analogies from the home and business. The result was that in last year's general election, Labour Party promises to reflate, institute new public works programs, and so on, never stood a chance.

What can we expect over the four years that remain of her second administration?

More legislation to control unions, more denationalization of state-owned industries, more privatization of local government services, and more sales of public housing are all quite clearly in the cards. Curbs on increases in local property taxes and the removal of a whole tier of local government are also reasonably certain. There is even a good chance that minimum-wage legislation will be scrapped and that some of the monopolies in the professions will be tackled. Among the best possibilities are the opticians' monopoly on selling glasses, the solicitors' monopoly on transferring deeds on houses, and the monopoly enjoyed by barristers—who rank higher than solicitors—on "rights of audience," or representing clients in higher courts.

Spending and tax cuts, however, are a lot less certain. The cabinet is much "dryer" than before, but battles between many of the spending ministers and taxing ministers continue. The absolutely firm commitment to keep the deficit down—as a percentage of GNP, it is now the lowest of any Western nation—coupled with an apparently equal commitment to increase defense and social-welfare spending gives little leeway for maneuver. In recent months Thatcher has repeatedly stated that tax cuts can come only after real growth in the economy—the very opposite of supply-side theory adopted by the Reagan administration.

". . . that the free market is the only safe way of ensuring that productive effort is directed towards supplying what individuals actually want, and in a way which secures the dignity and independence of the worker."

One highly beneficial effect of this equation, though, is the impetus it gives to the sale of state-owned companies and other assets. The list of such companies and assets already sold is impressive, as is their performance since being sold. But the list of those being prepared for the market is doubly impressive. Indeed, so much is destined for sale that nationalized industry chiefs are almost bickering in public over who should be allowed to go first.

Although the Conservative Party received a slightly smaller percentage of the vote in 1983 than it did in 1979, it has 397 seats in Parliament, its best situation in 50 years. In contrast, the Labour Party won a mere 27.6 percent of the 1983 vote and only 209 seats in Parliament, its worst situation in 50 years. With Labour's current leadership, policies, and ever-leftward drift, it is essentially a dying party. The huge population shifts from the old inner cities to the suburbs and growth areas have eroded Labour's prime base of support.

More and more of the sons and daughters of traditional die-hard Labour supporters have moved out, possibly taking white-collar rather than blue-collar jobs as British industry becomes more service-oriented. Such offspring are also far more likely to be homeowners and supportive of anybody *but* the Labour Party.

The new young left-wing Labour "turks" seem to base their policies on a motto of "if it's unpopular, let's support it." Their opposition to the monarchy, the House of Lords, private enterprise, and

(Continued on p. 48)

THE UPS AND Flyi.

It's a car! It's a plane! It's both! And inv

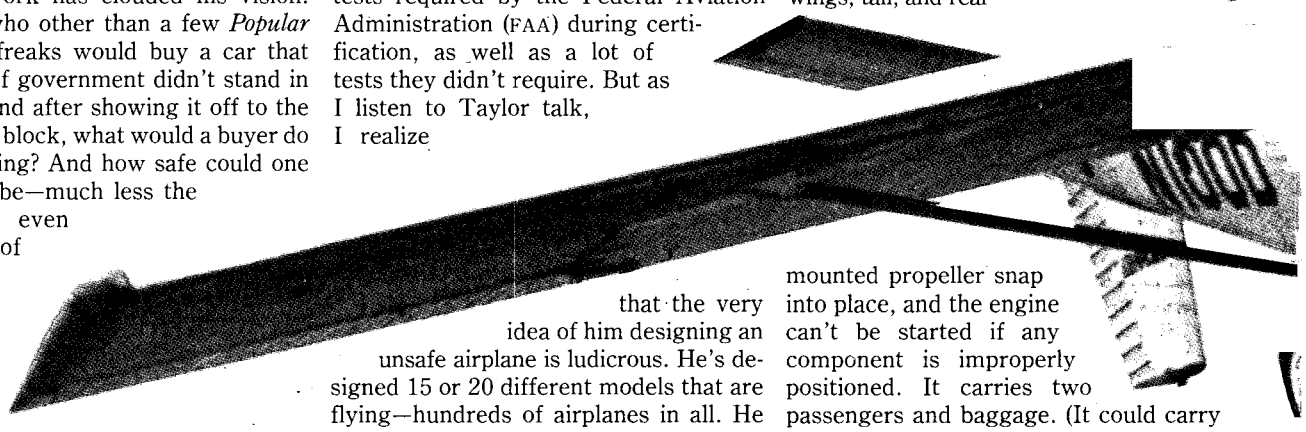
By John

On that summer afternoon in 1954, pilots at Seattle's Boeing Field could have been forgiven for shaking their heads as they watched an automobile roll down the runway, take off, and soar out of sight. Just minutes before, the automobile had been driving down the old Pacific Highway with wings and tail in tow. Moulton B. "Moult" Taylor, the car's designer and builder, was at the wheel.

Taylor had just driven from a parking spot in front of the Ben Franklin Hotel, where aviation notables attending a conference could peer through the windows of his Aerocar and examine it to the ebullient tune of Taylor's sales pitch. One of them had taken Taylor aside and said, "Mr. Taylor, one of these days the Aerocar will displace the commercial airline except on the long-distance haul." The man was W. A. Patterson, then the president of United Airlines.

Yet here I am 30 years later at Moult Taylor's diminutive airplane factory in Longview, Washington, looking at one of only seven Aerocars ever built. Something went wrong. That something, according to Taylor, was government regulation.

But even the sympathetic listener has to wonder if 71-year-old Taylor's passion for the machine that is the centerpiece of his life's work has clouded his vision. After all, who other than a few *Popular Mechanics* freaks would buy a car that flies, even if government didn't stand in the way? And after showing it off to the boys on the block, what would a buyer do with the thing? And how safe could one in the sky be—much less the thousands, even hundreds of thousands, Taylor dreams of?



He dispatches my reservations, as well as some I hadn't thought of, with a shower of ideas that pop in my ears like little firecrackers. I am talking to a rare bird who combines vision, technique, and the ability to spin wrenches, and my doubts about the Aerocar have betrayed my own lack of vision.

Who would buy it? A person who wants to get into his car at home, drive to a convenient spot towing the wings and tail on integral wheels, rig for flying in five minutes, fly at 150 miles per hour to the vicinity of his destination, unhook the wings, and drive the rest of the way. No airports, no waiting lines, no highway congestion, no 55-mile-per-hour speed limit, no rent-a-car. The Aerocar would appeal to people like sales reps for whom time is money; families off to see grandma for the holidays; commuters who have spent as much time hassling traffic lights and freeway interchanges as they care to.

Third World countries that lack a well-developed intercity highway system would benefit enormously from the Aerocar. It comes complete with its own freeway at no extra charge and sells for about the price of a new Lincoln. Not bad when compared to the traditional light planes being built today—with 1930s technology—for $50,000 on up.

Safe? The Aerocar passed all of the tests required by the Federal Aviation Administration (FAA) during certification, as well as a lot of tests they didn't require. But as I listen to Taylor talk, I realize that the very idea of him designing an unsafe airplane is ludicrous. He's designed 15 or 20 different models that are flying—hundreds of airplanes in all. He designs airplanes because that is what he loves, and they are safe because carefully designed airplanes are safe, not because the FAA is watching. The few Aerocars that went into everyday operation flew a total of 9,000 hours without serious incident except for one Aerocar pilot, a cranberry magnate with a flair for the unusual, who hit a horse while landing on a road in Cuba. (He made repairs at a country service station and flew his Aerocar back to Boston.)

Naturally, far more territory and objects are potentially vulnerable to falling aircraft than to car or truck accidents that occur on streets or highways. But as Taylor points out, the requirements for a license to operate a light plane are far more stringent than those for getting a driver's license, and pilots—unlike most car drivers—must demonstrate their proficiency at flying from time to time. Partly because of these tougher standards, Taylor suggests that general aviation is a relatively safe form of travel, and if the same standards were applied to Aerocar pilots as to general-aviation pilots, there's no reason why their safety record wouldn't be equally as good.

Practical? The Aerocar can be converted from plane to car (or car to plane) by one person in 5-10 minutes. The wings, tail, and rear-mounted propeller snap into place, and the engine can't be started if any component is improperly positioned. It carries two passengers and baggage. (It could carry three, but FAA regulations prohibit more than two; both must sit in the front seat.) The panel has all the instruments necessary for monitoring the engine and for flying under visual conditions. The steering wheel serves as the control mechanism in flight—turn the wheel to roll the airplane, pull back to climb, and so on. Moreover, the most advanced of the Aerocars is pleasing to the eye. It could pass for an Italian sports car, with the interior trimmed with leather and a

Photograph courtesy *Motor Trend*

DOWNS OF THE glar

tor Moult Taylor won't give up his vision.

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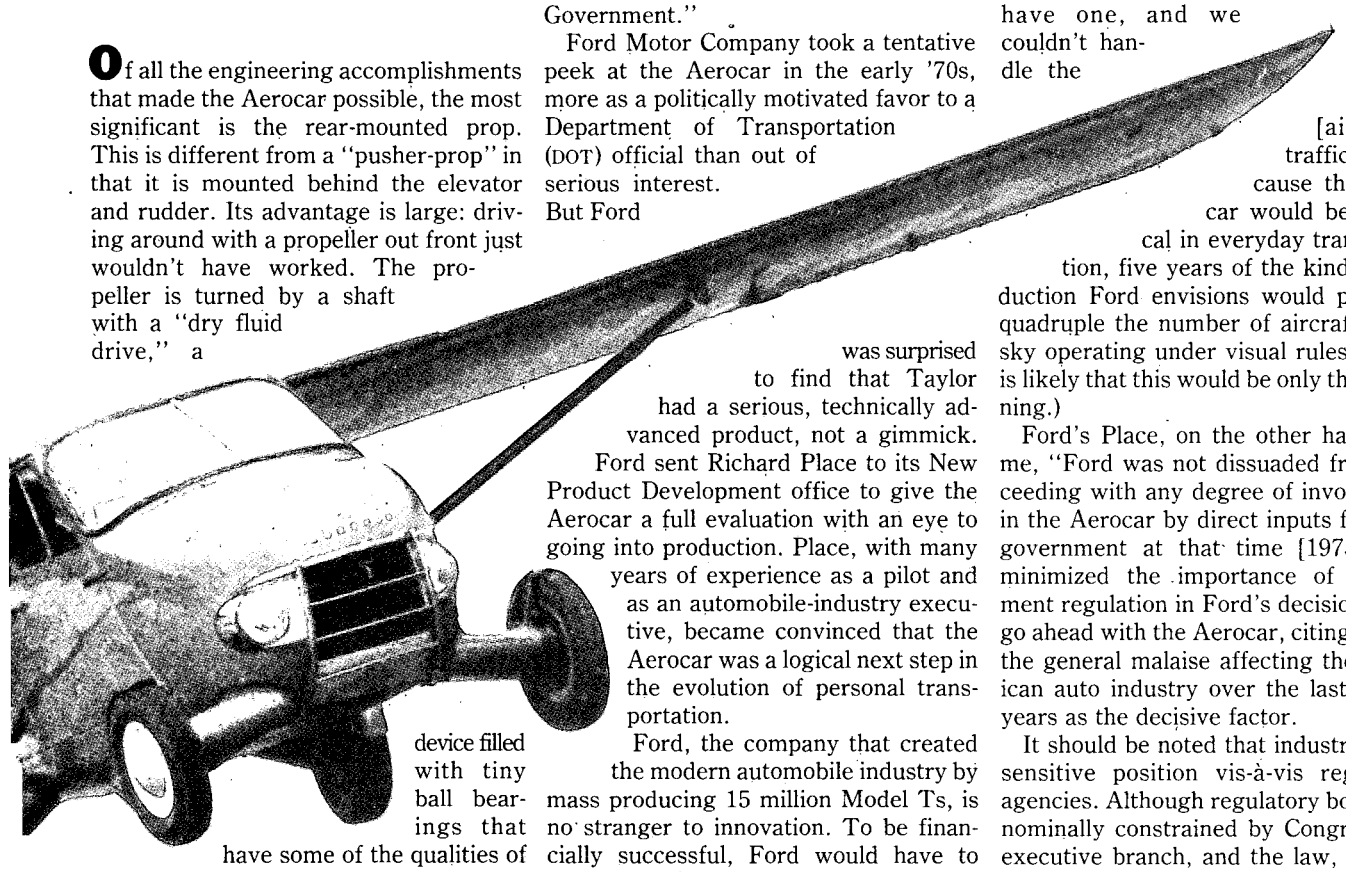
plush carpet. On the road, the Aerocar gets 15 miles per gallon; in flight, it burns 8 gallons of fuel per hour and has a 32-gallon tank.

Of all the engineering accomplishments that made the Aerocar possible, the most significant is the rear-mounted prop. This is different from a "pusher-prop" in that it is mounted behind the elevator and rudder. Its advantage is large: driving around with a propeller out front just wouldn't have worked. The propeller is turned by a shaft with a "dry fluid drive," a device filled with tiny ball bearings that have some of the qualities of fluids and some of the qualities of solids. The dry fluid drive overcomes "torsional pulsing" problems created by reciprocating engines. Thus, without it, a long shaft from engine to prop wouldn't be possible. Taylor recently did some consulting with the Air Force Association on a flying Wright Brothers replica that was having this "pulsing" problem, and he solved the problem by using a dry fluid drive.



Taylor points out that there have been no advances in *individual* travel since 1943, when I was born, and he asks, "Are we going to be stuck with the 55-mile-per-hour speed limit forevermore? Is this the fastest we are ever going to go?" And whose fault is it that we aren't going faster? "Government. Government."

Ford Motor Company took a tentative peek at the Aerocar in the early '70s, more as a politically motivated favor to a Department of Transportation (DOT) official than out of serious interest. But Ford was surprised to find that Taylor had a serious, technically advanced product, not a gimmick. Ford sent Richard Place to its New Product Development office to give the Aerocar a full evaluation with an eye to going into production. Place, with many years of experience as a pilot and as an automobile-industry executive, became convinced that the Aerocar was a logical next step in the evolution of personal transportation.

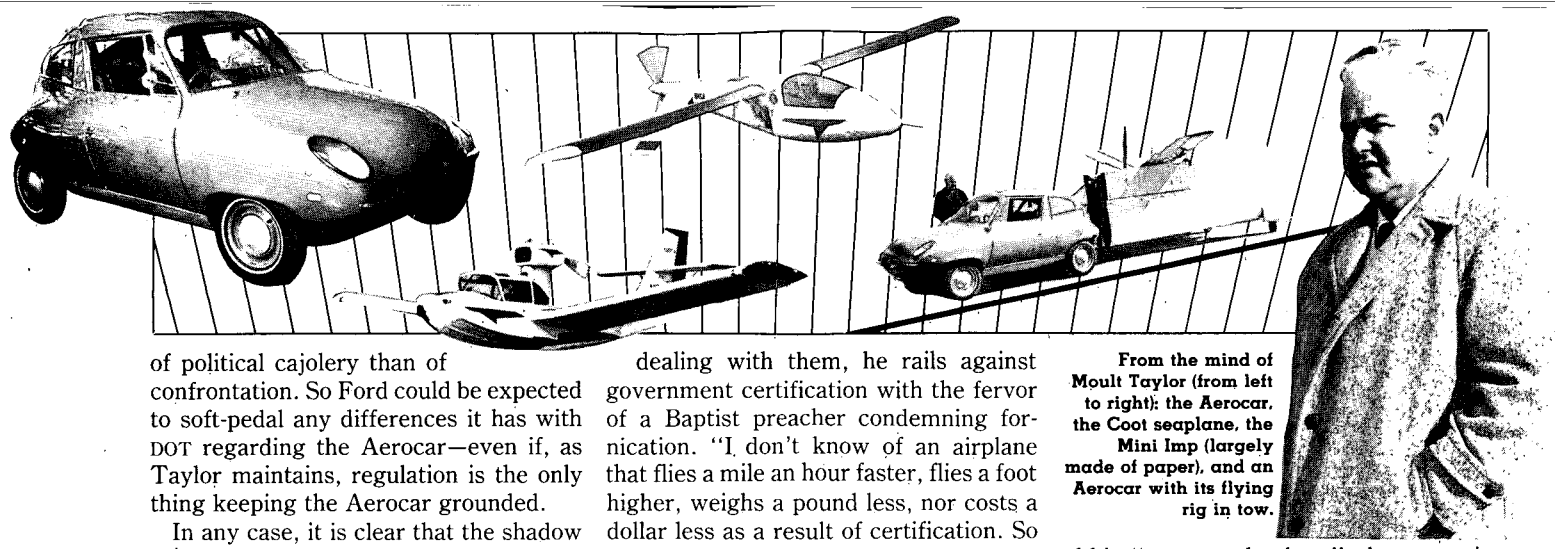
Ford, the company that created the modern automobile industry by mass producing 15 million Model Ts, is no stranger to innovation. To be financially successful, Ford would have to adapt mass-production assembly-line techniques to the Aerocar, Place believed, a step that would require a tooling investment of "hundreds, perhaps billions of dollars." And Ford would have to build a minimum of 20,000 to 30,000 a year, a massive undertaking even for a company of Ford's size.

But before decisions could be made at Ford, there were critical regulatory hurdles to be jumped. The Aerocar is a new kind of transportation. What would the Transportation Department and Federal Aviation Administration require? Did it make sense for the Aerocar to lug around the weight of federally mandated auto bumpers? Or to have a body reinforced to withstand minor collisions that wouldn't occur in flight?

Ford and Taylor both went to Washington to talk with the regulatory folks who are automatic partners in any venture of this sort—partners with veto power and nothing to lose if the venture fails. Ford's and Taylor's accounts of their experiences there differ somewhat. Taylor adamantly maintains that, although DOT wouldn't say so for the record, they've turned thumbs down on the Aerocar "because everybody would have one, and we couldn't handle the [airborne] traffic." (Because the Aerocar would be practical in everyday transportation, five years of the kind of production Ford envisions would probably quadruple the number of aircraft in the sky operating under visual rules—and it is likely that this would be only the beginning.)

Ford's Place, on the other hand, told me, "Ford was not dissuaded from proceeding with any degree of involvement in the Aerocar by direct inputs from the government at that time [1975]." He minimized the importance of government regulation in Ford's decision not to go ahead with the Aerocar, citing instead the general malaise affecting the American auto industry over the last several years as the decisive factor.

It should be noted that industry is in a sensitive position vis-à-vis regulatory agencies. Although regulatory bodies are nominally constrained by Congress, the executive branch, and the law, they actually have a great deal of discretion. Agencies routinely make costly requirements of industry, requirements that are sometimes arbitrary, politically motivated, or punitive. Most firms have developed a policy of "getting along" with their regulators by establishing a "good working relationship." Firms, especially large firms, rarely complain publicly about the agency regulating them. Ford is no exception. If Ford ever persuades DOT to give the nod to the Aerocar, it will more likely be the result



From the mind of Moult Taylor (from left to right): the Aerocar, the Coot seaplane, the Mini Imp (largely made of paper), and an Aerocar with its flying rig in tow.

of political cajolery than of confrontation. So Ford could be expected to soft-pedal any differences it has with DOT regarding the Aerocar—even if, as Taylor maintains, regulation is the only thing keeping the Aerocar grounded.

In any case, it is clear that the shadow of regulation injects an enormous degree of uncertainty for any radical departure from established practice. In such cases, regulation is often "open-ended"; that is, regulators write the rules as they go. For example, Lear has spent over $20 million trying to certify the Learfan 2100, an aircraft with a revolutionary new carbon-fiber airframe and rear-mounted propeller, and the end is still not in sight.

Despite financial and regulatory uncertainties, Ford hasn't given up on the Aerocar. Lobbying for government acceptance, Place wrote House Science and Technology Committee consultant Scott Crossfield last August, "Personally having flown for 18 years and being deeply involved in the automobile industry for 22, I'm convinced of the potential of the Aerocar," and he concluded by saying that the Aerocar was "worth a try."

It is clear that Ford isn't going to go ahead with the Aerocar without a positive commitment of support from the federal government—until regulators say, "We think the Aerocar is a good idea, and we will do what we can to cooperate."

Moult Taylor likes problems, at least problems of the physical kind that require only brilliance and a drafting table to solve. Before World War II, he was designing and manufacturing some of the first airborne radios. During the war, he headed up a Navy team that built the first successful television-controlled guided missiles. In addition to the many airplanes he has personally designed, he has done consulting for other firms. For instance, he suggested to Lear the means to overcome a certification roadblock that had the potential of permanently stalling the Lear Jet, one of the most successful aircraft designs of all time. Recently he consulted on the Learfan 2100, which sports a Taylor trademark—a rear-mounted, shaft-driven prop.

But Taylor doesn't like the political problems of regulation. After 40 years of dealing with them, he rails against government certification with the fervor of a Baptist preacher condemning fornication. "I don't know of an airplane that flies a mile an hour faster, flies a foot higher, weighs a pound less, nor costs a dollar less as a result of certification. So what the hell do we have it for?"

What about safety? Can profit-maximizing businesses be trusted to build safe airplanes without government monitoring? "If a man started building flying automobiles that the wings fell off of, do you think he'd be in business very long?"

Are market forces really enough? "Absolutely," he says. "And I'm sure that if you pulled the certification requirement entirely off of Ford Motor and they started building flying automobiles, they'd make damned sure that their flying automobile was tested and did comply with what experience has shown is necessary to make it a safe airplane. Now they have to go through all of this and that and wait for months and fill in reams and reams of paperwork, and wait until inspectors can get there. It's a time-consuming, costly thing."

And about the FAA he declares, "The administrator is a politician who doesn't know what the hell his bureaucracy is doing. The bureaucracy is a bunch of professionals who are in there year after year and can't be canned. They don't want to rock the boat. They want to keep things just the way they are.

"When we talked to them about air traffic control, they said, 'Well, no, we can't control any more airplanes. That's why we have to limit the growth of them.' But the FAA is still back in the '20s, you know. They want this man there to watch the radar scope and tell everybody when to go through the intersection. Goddam stupid operation. It should never be run that way. Hell, I can show them how to run it in five minutes with simple navigation equipment that exists today."

What about nongovernmental certification? "It would have to be a profit-making organization, or it wouldn't work. Therefore, it wouldn't be fat and top-heavy, and loaded with incompetents and all of the things that a noncompetitive situation always ends up in."

In the meantime, Taylor is content to make paper airplanes—literally. Several of his "paper technology" planes are in various stages of completion on his factory floor. The planes are, for the most part, really paper: skin, airframe, control surfaces. Taylor has developed a process of impregnating paper with epoxies to add rigidity. Taylor's paper airplanes are stronger, cheaper, lighter, and faster than the aluminum-skinned, pop-riveted anachronisms favored by light-plane manufacturers. Taylor asks, "Where the hell are Beech, Piper, and Cessna? They've been protected by certification, they paid their dues, and they said, 'We don't have to try anymore.' "

As technology develops, the Aerocar becomes even more feasible: Microcomputers can take over navigation, collision avoidance, and engine-monitoring functions; light, rugged, plastic-composite air foils can improve aerodynamic performance. Superlight composite material engines will soon be in production. Taylor proposes using two engines to push one prop—dual redundancy with no increase in weight over the old iron technology. Meanwhile, in Princeton, New Jersey, Dr. Gerard K. O'Neill is putting together a satellite and computer navigation system that could be the private sector's answer to FAA qualms about all the potential new airborne traffic.

The future of individual airborne transportation is full of promise. The question now is, Will it get its chance in the marketplace or will the regulators keep it permanently grounded?

It's too early to know. For the time being, Moult Taylor spends his time at his drafting table and on his factory floor, pausing from time to time to glare in the general direction of Washington, D.C., and to ask anyone who will listen, "Are we going to be stuck with the 55-mile-per-hour speed limit forevermore? Is this the fastest we will ever go?" ◻

John Doherty, an airline pilot, won the Washington Monthly Journalism Award for his REASON article "Collision Course" (June 1982).

Photograph of "Coot" by Jan Fardell/Other photographs courtesy M. B. Taylor

By Ted Galen Carpenter

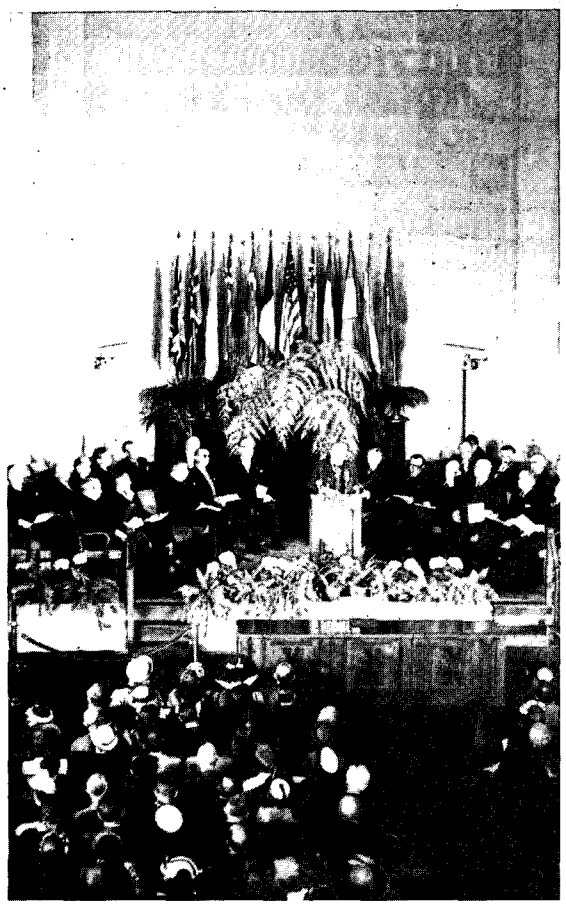
STANDING GUARD OVER EUROPE

American troops in Europe were never meant to be a part of NATO—but they've been there for 33 years.

On April 4, 1949, in a ceremony described by the *New York Times* as a "restrained affair," President Harry Truman and 11 other heads of state put their signatures to the North Atlantic Treaty. After the signing, Truman spoke briefly and solemnly of the event. Secretary of State Dean Acheson glorified the pact in language thick with biblical allusions. On the front page of the April 5 *Times*, above a large and reverent photograph of the ceremony, ran the headline: "A Historic Event in Our Nation's Capital."

Within Congress and among the public at large, months of intense and often acrimonious debate regarding the treaty had preceded the signing. The debate continued with increasing bitterness through late July, when the Senate would vote on ratification of the treaty. Skeptics wondered how much and what kind of US arms aid would go to European nations. They wanted to know how—and by whom—the treaty's mutual-assistance agreement would be interpreted. During Senate hearings on the treaty, Truman-administration officials admitted that European negotiators had sought further American involvement, including arms aid, an "automatic war" clause, and even the provision of US troops, but the officials denied that the pact harbored any such obligations. Treaty opponents viewed those assurances with skepticism and proposed reservations explicitly protecting congressional war powers and the right to reject any subsequent arms-assistance legislation.

One issue that did *not* enter into debate, however, was the question of a large US-troops presence in Europe as part of a North Atlantic Treaty Organization (NATO) army: that possibility seemed so remote—so fully outside of any reasonable interpretation of the US role in NATO—that



The signing of the North Atlantic Treaty, 1949: US troops for Europe weren't part of the deal.

treaty critics submitted no specific reservation on the subject. Indeed, a large peacetime alliance army was not contemplated at all. Proponents of the treaty portrayed it exclusively as a joint guarantee, a warning to the Soviet Union or any other would-be aggressor that a "divide and conquer" strategy would be futile.

Throughout the Senate's ratification proceedings, the issue of US troops for NATO received scant attention. One notable exception occurred during Foreign Relations Committee hearings on the treaty. Iowa Republican Bourke Hickenlooper asked Secretary of State Acheson whether the United States would "be expected to send substantial numbers of troops over there as a more or less permanent contribution to the development of these countries' capacity to resist." Acheson replied: "The answer to that question, Senator, is a clear and absolute 'No.' " (Acheson and other administration officials noted that the United States already maintained two divisions—about 100,000 troops—in Germany as part of the Allied occupation force. But as soon as a German peace treaty could be negotiated, those troops were to be withdrawn, a plan that still seemed plausible in 1949.)

With seemingly satisfactory assurances of a clearly limited US role in the defense pact, the Senate, by a vote of 82 to 13, ratified the treaty. Yet by the end of 1951, within little more than two years after ratification, some 200,000 US troops shipped out for Europe for NATO duty—thus putting the number of American soldiers stationed in Europe at 300,000. In 1984, 33 years later, those troops are a large component of a US contribution to NATO worth between $70 billion and $130 billion a year (depending on what is counted as part of that contribution)—an arrangement by which US taxpayers fund more than half of NATO's cost.

Today, throughout the United States, America's future role in NATO is increasingly being questioned. Citizens of diverse political persuasions express resentment toward the Western European nations, charging an uncooperative attitude and an apparent unwillingness to bear their "fair share" of the alliance's defense burdens. Highly publicized demonstrations in various NATO countries against the deployment of new American intermediate-range missiles (which the European governments originally requested) have exacerbated this annoyance. Discontent with the attitude and performance of the European alliance members has even penetrated establishment organizations such as the ardently pro-European Atlantic Council of the United States. Critics such as columnist William Safire and noted military analysts Jeffrey Record and Robert Hanks question the wisdom of subsidizing the defense of prosperous economic competitors four decades after World War II, and they wonder aloud whether NATO itself may have outlived its usefulness.

The continuing presence of 300,000 US soldiers in Western Europe is one of the most controversial aspects of the US role in NATO. Dissension regarding that issue has flared before. President Truman's original decision in late 1950 to station large numbers of American ground forces in Europe provoked an acrimonious confrontation with Congress—the "Great Debate"—and Truman's policy barely emerged from that struggle intact. During the late 1960s and early '70s, Senate Majority Leader Mike Mansfield (D-Mont.) repeatedly introduced a resolution mandating the reduction of American forces in Europe by half. His proposal attracted considerable support, but the Nixon administration and a bipartisan interventionist coalition in the Senate defeated it in 1971.

Now, for the first time since the failure of the Mansfield amendment, substantial sentiment in Congress and throughout the country has emerged for reducing, if not entirely withdrawing, American troops from Europe. Even many ardent critics of current policy, however, do not realize that Truman's original commitment to provide ground forces for the North Atlantic alliance was intended to be a strictly temporary measure. Those units were to remain on the continent only until the Western European states could raise, equip, and train sufficient forces of their own. Substantial evidence—including some recently declassified documents—supports that conclusion. A decision to withdraw US troops, therefore, would hardly constitute the betrayal of any sacred trust—rather, it would represent a return to an original policy objective that the other NATO members systematically eroded during the past three decades.

Preparing for NATO maneuvers: Americans pay from $70 to $130 billion a year on Europe's defense.

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The establishment of NATO did not alter the fundamental military equation in Europe. Everyone involved in this geopolitical struggle realized that the Soviet bloc possessed an overwhelming superiority of conventional forces on the continent and that America's nuclear arsenal and strategic air power, not any NATO army, would remain the principal deterrent to Russian aggression. The NATO pact merely made the linkage of American and European security interests explicit, warning Moscow that the United States would not view an attack upon Westen Europe with indifference. In all probability, the Kremlin leadership already reached that conclusion months, if not years, earlier.

Allied officials did view the disparity in conventional military strength between communist and noncommunist Europe with some concern, especially after America's atomic monopoly ended in August 1949. The Soviets' development of a nuclear capability portended long-term difficulties for NATO, since the credibility of the US strategic deterrent in providing protection to Western Europe was inevitably to wane. Nevertheless, Truman-administration officials did not consider any contribution of American troops to a buildup of NATO's conventional forces until the summer of 1950. The top-secret comprehensive strategic plan (DC-6, "Strategic Concept for the Defense of the North Atlantic Area") adopted by NATO's Defense Committee in December 1949 and approved by President Truman the following month contained no hint whatever that the United States would expand its troop commitment to Europe. Administration policy was confined to programs of financial assistance and transfers of armaments to help the European governments build up *their own* armed forces.

The onset of the Korean conflict in 1950 altered Washington's position regarding European defense in several important ways. Almost immediately the various Western European governments feared that the Soviets might instigate a similar military assault in their region. They noted a disturbing analogy between Korea and Germany, each nation suffering under an artificial division with a well-armed communist regime confronting a pro-Western government possessing meager military resources. During July and August of 1950, the European allies inundated the Truman administration with proposals for a buildup of NATO's conventional forces and the inclusion of West Germany within the defense perimeter. These plans invariably called for the United States to contribute a large military contingent to an integrated NATO army and appoint an American general to command allied forces.

Dean Acheson and the State Department bureaucracy favored these proposals, but Pentagon officials were less enthusiastic. Secretary of Defense Louis Johnson and the Joint Chiefs of Staff were united in opposing further US obligations unless the other NATO members met certain conditions, including acceptance of West German rearmament (a step vehemently opposed in France and several other countries) and a firm commitment to strengthen their own defense capabilities. Even then, Pentagon leaders emphasized that the United States should only undertake these new responsibilities temporarily.

After much internal wrangling, the Truman administration adopted a new and more vigorous leadership role within the North Atlantic alliance. The State and Defense departments prepared a document that embodied these changes. In September 1950 the National Security Council approved the document (NSC-82), which was declassified in mid-1983. Though NSC-82 represented a compromise between State Department and Defense Department positions on the US role in NATO, the Defense Department's position emerged victorious in several crucial areas. Administration officials agreed to station an additional four divisions in Europe as part of a combined NATO force, "based on the expectation" that this action "will be met with similar efforts on the part of the other nations involved." The policy paper emphasized that the United States "should make it clear that it is now squarely up to the European signatories of the North Atlantic Treaty to provide the balance of the forces required for the initial defense." Firm programs for the development of adequate European forces represented "a prerequisite" for the fulfillment of the new American commitment.

Although the National Security Council also agreed that the United States should appoint the first commander of NATO defense forces, there were stringent conditions attached to that proposed action as well. Appointment of an American general was contingent upon the Europeans assuring that "they will provide sufficient forces, including adequate German units, to constitute a command reasonably capable of fulfilling its responsibilities." The ultimate US objective was to "assist" the European nations to provide a defense capable of deterring or meeting an attack: "When this objective is achieved it is hoped that the United States will be able to leave to the European nation-members the primary responsibility...of maintaining and commanding such a force."

The NSC-82 position, emphasizing the limited and temporary nature of these new American commitments, was not an isolated phenomenon. Six weeks after the National Security Council approved NSC-82, Secretary of State Acheson expressed similar sentiments. He informed Sir Oliver Franks, the British ambassador to Washington, that the European states must develop mechanisms for greater political cooperation to ensure an effective defense force when American troops "would no longer be necessary in Europe and went home." Although he did not stipulate a deadline for the latter development, Acheson implied that US forces would remain only for a few years.

A persistent and vehement foe of any long-term or indefinite American participation in NATO's conventional defenses was the man President Truman and the NATO Council selected as the first supreme commander in December 1950—Dwight D. Eisenhower. In a diary entry for February 1, 1951, Eisenhower

Dwight Eisenhower, NATO's first supreme commander, urged a time limit for US troops in Europe.

Photographs courtesy NATO

The American desire for eventual withdrawal of US troops was vulnerable at its core.

recorded his view that *"the United States should establish clear limits"* regarding the length of time US forces would remain in Europe and "should inform Europe of these estimates" (his emphasis). He expressed virtually the same opinion three weeks later in a letter to President Truman. Although Eisenhower believed the existing American military presence in Europe was essential and that future troops levels must remain flexible, he concluded that "it should be possible within some 4-8 years to reduce the American ground forces stationed here at the same rate the European systems develop the trained reserves to replace American units."

The program outlined in NSC-82 traveled a tortuous path before it became official NATO policy. For nearly three months, American officials sought to overcome French objections to West German rearmament, eventually negotiating a fragile compromise. In mid-December 1950, the NATO Council finally adopted a slightly modified version of the American plan and ratified the appointment of Dwight Eisenhower as supreme commander, but political upheaval in the United States threatened for a time to overturn that result.

A conservative-isolationist coalition attacked both the wisdom of the new NATO strategy and President Truman's arrogance in assuming tht he could implement such vital changes without congressional consent. This "Great Debate" raged throughout early 1951, but in April the Senate issued an anemic resolution approving Truman's decision to send the four divisions while admonishing him to take no further action without the approval of Congress. By the end of the year, all four divisions had assumed their "temporary" duty stations in Europe.

Available evidence suggests that American officials never intended to assign substantial numbers of their country's troops on the European continent as a permanent garrison. It is equally apparent that what began as an interim, emergency measure became a long-term commitment, increasingly viewed as normal and inviolate on both sides of the Atlantic. This transformation occurred gradually, as several developments eroded America's original intent.

The American desire for eventual withdrawal of US troops from Europe was vulnerable at its core, because it depended on European willingness to build a conventional force to match that of the Soviet bloc. Evidence of such dedication was not forthcoming. Although the NATO Council did adopt ambitious troop-level goals at its Lisbon meeting in February 1952, this action marked the zenith of allied determination. An omen of future trends came a few days later in France when, following the National Assembly's rejection of a proposed tax package to finance French obligations under the Lisbon plan, Premier Edgar Faure's cabinet collapsed. Other European governments soon exhibited a similar lack of enthusiasm for ambitious rearmament projects. Indeed, *reductions* rather than increases in military spending (measured as a percentage of annual gross national product) became the trend.

By the mid-1950s, the Lisbon force-level goals were merely a memory. Western Europe's military effort often seemed little more than the absolute minimum necessary to avoid US congressional wrath and possible legislation mandating a pull-out of American troops. In March 1955—more than three years after the Lisbon conference—NATO Supreme Commander General Alfred Gruenther conceded to the Senate Foreign Relations Committee that the conventional forces at his disposal were still totally insufficient to repel a major attack. The alliance increasingly depended on America's strategic nuclear arsenal for protection, a policy that remained credible only so long as the United States maintained a decisive nuclear superiority over the Soviet Union.

Washington occasionally expressed annoyance at the allies' unwillingness to build the powerful conventional army envisaged at Lisbon. Even a renowned Europhile such as former Secretary of State Acheson conceded that European apathy resulted from a "receding tide of political will," not economic constraints. But US officials feared taking any action that might jeopardize NATO's unity. Eisenhower acknowledged the powerful influence of that latter fear in a 1963 *Saturday Evening Post* article. "Though for eight years in the White House I believed and announced to my associates that a reduction of American strength in Europe should be initiated as soon as possible," the former president recalled, "the matter was then considered too delicate a political question to raise."

At the same time that it became apparent that the European allies would not fulfill their military obligations another event also undermined the possibility of an American troop withdrawal. Despite an agreement at the Brussels conference in December 1950 to permit a West German role in NATO's defense structure, French obstructionism prevented implementation of that decision until the mid-1950s. A succession of governments in Paris endeavored to secure a firm US commitment to maintain forces on the continent as a price for French acquiescence to German rearmament.

Both the Truman and Eisenhower administrations resisted such demands, indicating a continuing American reluctance to prolong the troop commitment. In his memoirs *Present at the Creation*, Dean Acheson recalled his response when French Foreign Minister Robert Schuman asked for an extended American troop presence at a 1952 NATO session: "I was very firm that we must keep our commitments within existing congressional authorization and treaties and would not enter into any new ones." The Eisenhower administration was equally unresponsive when French officials pressed those same demands the following year.

Not until the impasse concerning Germany's military role reached crisis proportions in late 1954 and early 1955 did Washington finally relent. As part of the agreement admitting West Germany into NATO's defense arrangements (thus providing badly needed manpower and a reasonably defensible frontier), the State Department dispatched a top secret list of "assurances" to the European allies. This document, declassified in late 1982, illustrated the expanding nature of America's NATO obligations.

One of the most important items promised that the United States would "maintain in Europe, including Germany, such units of its armed forces as may be necessary and appropriate to contribute its fair share of the forces needed for the joint defense of the North Atlantic area while a threat to that area exists, and will continue to deploy such forces in accordance with agreed North Atlantic strategy for the defense of this area." Eisenhower,

who four years earlier had advocated strict time limits regarding the presence of American troops in Europe, now presided over the transformation of a temporary commitment into an indefinite one.

In fairness to Eisenhower, his agreement to expand US participation in NATO was given under duress, since the conflict over German participation threatened the alliance's unity and risked making a shambles of existing Western defense arrangements. The reluctant shift in government policy apparently did not eliminate the president's personal desire for an eventual withdrawal of American forces. The sentiments expressed in his 1963 *Saturday Evening Post* article as well as similar comments contained in a letter to congressional committees reviewing NATO policy (published in the *New York Times* in 1966) demonstrated the persistence of those attitudes after Eisenhower left the presidency.

A December 6, 1960, conversation between Eisenhower and President-elect John Kennedy, which Eisenhower summarized in his second volume of memoirs, *Waging Peace*, evokes even more clearly the tension between Eisenhower's personal views and the perceived constraints of established foreign policy. Eisenhower informed Kennedy that a variety of reasons, including his conviction "that America is carrying far more than her share" of Western defense responsibilities, inclined him to warn NATO that the US would "redeploy" some of its forces from Europe unless a more cooperative attitude was forthcoming. With some apparent irritation, the outgoing president charged that despite growing European prosperity, the allies "still seem to be unwilling" to assume "their fair share of the defense burden." Since the United States provided most of the naval strength and strategic air power for the defense of the North Atlantic region, the European nations "should be prepared to maintain a much larger proportion of the ground defense formations."

This conversation represented the last occasion when pressure for at least a partial withdrawal of American forces would come from the executive branch. Eisenhower assured Kennedy that, despite his personal views, he would take no initiative that would restrict the incoming president's freedom of action regarding NATO policy. The influence of redeployment threats on the European governments was virtually nil anyway since the Eisenhower administration was in its waning days. Allied leaders understood that America's new chief executive did not share his predecessor's views.

In fact, Kennedy placed renewed emphasis on a buildup of NATO's conventional military power so that the alliance would depend less on America's strategic nuclear deterrent. And he believed that the United States would appear inconsistent if it urged the European members to increase their conventional forces while planning to withdraw its own units from the continent. During succeeding administrations, this position became even more firmly entrenched.

When renewed sentiment for reducing the American military presence in Europe resurfaced in the late 1960s and early '70s, it came from the legislative branch in the form of Sen. Mike Mansfield's resolution. Both the Johnson and Nixon administrations castigated that initiative and used all their influence to defeat it, even though the proposal contemplated only a 50 percent reduction in American troops stationed in Europe rather than a total withdrawal. And the NATO critics' failure to enact the Mansfield amendment or any similar measure further solidified America's "temporary" alliance obligations.

In retrospect, American officials had been appallingly naive when, during the 1950s, they assumed that the Europeans would permit an eventual withdrawal of US ground forces. That assumption failed to comprehend European motives for wanting US troops in the first place. Continental political leaders viewed American forces as a tangible linkage of US security to that of Western Europe. Any withdrawal, even a partial one, reduced America's stake in Europe's fate and would renew doubts about the reliability of Washington's pledge to assist its allies in the event of a Soviet attack. And as the USSR eroded America's strategic nuclear preponderance, the symbolic importance of those ground forces increased rather than diminished: they reassured Europeans that the transatlantic protector would never abandon Europe during its hour of military need.

Both the United States and its allies are now snared in a mutually unpleasant dilemma. NATO's European members remain dependent on a distant foreign power for their defense, even though the credibility of that protection steadily evaporates. At the same time, the United States continues to bear costly and burdensome military responsibilities long after any rational justification for them has expired. The patience of many Americans regarding that situation is waning rapidly.

Both the United States and its allies are now snared in a mutually unpleasant dilemma.

Even Henry Kissinger, a redoubtable proponent of mutual security, contends that major reforms are imperative if NATO is to survive. In his recent *Time* article, "A Plan to Reshape NATO," Kissinger advocated the appointment of a European as the commander of alliance forces and insisted, "By 1990 Europe should assume the major responsibility for conventional ground defense." The former Secretary of State warned that unless the Western Europeans demonstrate a determination to achieve a "full conventional defense," the United States should consider withdrawing a "substantial portion, perhaps up to half," of its existing troop contingent.

Kissinger's call for "reform" may alert European governments to the risks inherent in their continued insistence on the status quo, but it does not confront the crux of the problem. A recent position paper circulated by the Atlantic Council of the United States, a private organization concerned with US foreign policy, provides a succinct indictment (albeit unintentional) of NATO's central flaw. Admitting that the North Atlantic alliance never constituted a truly reciprocal security arrangement, the study concludes that from the inception of the pact, the European members viewed themselves not so much as partners, "but rather as holders of an American insurance policy—with remarkably reasonable annual premiums." It is an apt analogy. The time is long overdue for the United States to confront its allies with a substantial rate increase—or better yet, a cancellation notice. ◻

Ted Galen Carpenter, a public-policy analyst, holds a Ph.D. in US history. His book America and the Transformation of NATO *will be published later this year.*

Thatcher's Break

(Continued from p. 39)

home ownership, coupled with their support for the Irish Republican Army (IRA), trade-union privileges, increased redistribution of wealth, and so on, can only be interpreted as a manic determination to dig their own political graves.

Unless the right of the Labour Party regains control, the Labour Party will not be returned to power for the foreseeable future. And even if the party were to change dramatically, it would take a massive shift in public opinion to bring it back.

It was the leftward shift of the Labour Party that gave rise to the breakaway Social Democratic Party (SDP) that has joined the Liberal Party to form the Alliance. The SDP was formed by Labour leaders who left their party and took with them over 20 Labour MPs and one Tory. Their popularity rocketed in the second year of the first Thatcher administration; at one point, 55 percent of voters polled said they would vote Alliance. However, it plummeted equally quickly in late 1981 and early 1982, and in the 1983 general election only six SDP candidates were elected to Parliament.

With the 17 Liberal MPs elected in 1983, the Alliance has 23 members in Parliament. However, this total seriously misrepresents the Alliance's level of support. Over the United Kingdom as a whole, Labour's 27.6 percent of the vote gave it 209 seats whereas the Alliance's 25.4 percent gave it only 23 seats.

The problem for the Alliance is Britain's "first-past-the-post" voting system, in which the party that gets more votes than any other within a specific constituency wins, and all other parties within the constituency are unrepresented. This system naturally favors parties whose support is concentrated in specific constituencies sufficiently to outdo its competitors. And although the Alliance has broad general support across the country, it has neither the concentrated pockets of support nor quite the overall level of support needed to take off.

With the Labour Party apparently dying, though, the Alliance could emerge as a serious threat to Thatcher. Should that happen and the Alliance forms a government at some point in the 1990s, it will not necessarily herald a return to the policies of the 1950s and 1960s. The work of the free-market IEA and others at the scholarly level and in opinion-forming circles, coupled with the aspirations of the voters and by then perhaps 10 or even 15 years of Margaret Thatcher, will have moved the center of British politics a significant distance toward the free market and a more limited role for government.

Margaret Thatcher herself is in many ways the exception that proves the rule—a very bright, very honest, and highly principled politician. Certainly she compromises; but because she is honest, she tells you when she is compromising and explains why she is doing so. She never leaves you in any doubt about where she stands. After decades of political leaders mouthing meaningless generalities, shifting and sliding hither and thither, covering up old tracks, this is refreshing, and it has struck a chord.

Her views are very much those of a person who has risen by sheer dint of effort, native wit, and intelligence. Unlike many of her predecessors, she did not enter politics from a wealthy or titled background with the reforming zeal of the meddler. Rather, her background was modest and strongly Methodist. Thrift, hard work, achievement, caring for others in the community yourself through private acts of charity, saving rather than borrowing, studying, using your initiative and independence—all these were strong parts of her childhood that are clearly visible today in her personal qualities and political philosophy.

Her goal is a country where the line between state and private activity is clearly drawn and pushed some way back. She sees many legitimate roles for government—defense, providing a safety net through social spending, law and order, and so on—but her list of such roles is shorter than most.

How far has Britain under Margaret Thatcher moved toward the ideal of the free society? Those who say "a lot" and those who say "not at all" are both wrong. The leftist infiltration and near-destruction of the Labour Party, the quarter of a century of scholarly and intellectual groundwork by Ralph Harris and Arthur Seldon of the IEA, and in Margaret Thatcher the emergence of a leader who shares at least some of their ideas and has stuck to them, all add up to a clean break from the postwar consensus and a few steps down the road to freedom.

Unfortunately, these steps are almost solely in the economic realm. On social issues and civil liberties, Thatcher is a populist authoritarian, as her views on marijuana indicate. At this writing, her government supports a bill to ban "video nasties," recordings that depict violent acts. When an MP proposed an amendment—eventually unsuccessful—to ban soft-core pornography (hard-core porn already is banned), Thatcher let it be known that she supported the move. She has favored restoration of the death penalty, and a recent survey of freedom in Britain, *Civil Liberties 1984*, pointed out that her government's abuses of civil liberties in Northern Ireland have been condemned by Amnesty International and other independent human-rights organizations.

The survey also charged that press freedom has not fared well under Thatcher. She has been happy to leave the notorious Official Secrets Act intact. Also, her government was behind the 1981 Contempt of Court Act, which gives courts the power to punish for contempt anyone who publishes the names of witnesses in a court case contrary to the judge's instruction, as well as the power to postpone the publication of court proceedings when the court deems it "necessary to avoid prejudice to those or later proceedings."

Very few economic liberals in Britain are also social liberals. Pioneering legislation to legalize or decriminalize victimless crimes and to strengthen civil liberties has originated mainly in the Liberal and Labour parties.

It is easy *both* to overestimate the significance of Thatcher's progress on the economic front and to underestimate the tremendous scholarly, intellectual, and political fight it has taken to move this small amount. Spending on health and personal social services, for example, has risen 13.4 percent in *real* terms since Margaret Thatcher became prime minister (only partially attributable to a rise in unemployment). Indeed, both the overall tax burden and the level of state expenditures have risen sharply.

And there are many other areas of government incursion that she has as yet quite simply failed to tackle, even areas where intellectually she agrees there should be no role for government. Still, there is a good and growing list of achievements, and it is a much, much longer list than anybody could have predicted with any degree of confidence five years ago.

Demolition of decades of government intervention is a marathon task, and Margaret Thatcher is interested only in running a half-marathon. She's about a mile into her race, in good shape, and, on some issues at least, running in the right direction. ◧

John Blundell is director of public affairs at the Institute for Humane Studies in California. This article is based on a talk first delivered to the Free Marin Supper Club.

VIEWPOINT

An Overdose of the State

BY LANCE LAMBERTON

When Ronald Reagan became president, it was a heady experience for many limited-government advocates. Here at last was a man who, both as candidate and president, unabashedly proclaimed his desire to get government out of our lives.

It did not take long, however, for entrenched special interests to sabotage much of the president's plans to reduce the size and scope of government. Especially disheartening was to see Reagan make policy that actually *increased* government intrusion into our lives. His drug-enforcement policy is perhaps the most egregious example of this: since taking office, Reagan has doubled federal expenditures on drug-enforcement efforts.

Indeed, the president's drug-enforcement policy is without question more vigorous, comprehensive, and expensive than that of any previous administration. In so being, it completely contradicts Reagan's professed major tenets: restoring individual responsibility and lessening our dependence on big government.

What is central to these basic tenets is the idea that autonomous individuals have a moral right to determine what is in their interest. This principle acknowledges that the individual should be free to act, provided that another's freedom of action is not thereby interfered with. On what basis, then, can Reagan presume to dictate to adult Americans what substances they may or may not take into their bodies?

Reagan's coercive stance with respect to drug use not only undermines the basic principles of his administration, but also its ancillary goals. Consider the administration's drug policy in light of Reagan's objectives of cutting government spending, ferreting out waste and abuse, reducing crime, delegating greater responsibility to state and local governments, shrinking the federal work force, and relying more on private-sector solutions to social problems.

Far from being reduced, Reagan's expenditures on drug enforcement have exceeded all other percentage increases in federal spending, including the military. And with this new largesse has come greater opportunities for boondoggling. Witness the paraquat-spraying operation last summer in the Blue Ridge Mountains of Georgia. Helicopters sprayed the dangerous herbicide over a tiny plot of marijuana in winds of over 15 miles per hour, performing the operation during the height of the tourist season. The local community was outraged over the damage caused both to property in the

immediate vicinity and to the tourist trade in the region.

A much larger boondoggle is the mass urinalysis program that now covers 3 million military personnel each year. These tests, which according to some estimates may eventually cost billions, are conducted to determine marijuana use in the military. However, the Department of Defense's own appraisals show the tests as only 40 to 60 percent accurate. Though the tests are worthless as forensic, guilt-determining devices, tens of thousands of service personnel have suffered disciplinary action based on the test results. (Legal challenges are beginning to overturn these disciplinary actions, but nothing is yet being done to end this costly drain on taxpayers.)

Moreover, few things do more to contribute to crime than drug prohibition. Experts estimate that one-third to one-half of all violent and property crime in the United States could be avoided by lifting bans on addictive drugs such as heroin. Addicts now rob and mug to get money to buy expensive illegal street heroin. But if legal, heroin would cost the typical addict no more than a few dollars a day, if even that.

Reagan's drug policy also is at odds with his call for state and local government to assume greater responsibility. Prior to his administration, state and local governments took almost exclusive responsibility for enforcing drug regulation. Now, in an unprecedented move, the US Army has been drafted into domestic marijuana-eradication efforts that sweep down on small communities in Northern California, destroying private property, obstructing citizens' free movement, and, in general, making a mockery of the Bill of Rights.

With regard to Reagan's efforts to shrink the federal work force, drug enforcement is once again the exception to the rule. The Drug Enforcement Agency has 19 percent more agents now than two years ago. And other agencies responsible for enforcing drug laws have been similarly expanded.

Perhaps the most glaring contradiction between Reagan's professed political philosophy and his drug policy is his failure to rely on the private sector to solve drug-abuse problems. "The answer to the drug problem," the president once said, "comes through winning over the users to the point that we take the customers away from the drugs." If he really believes that, then why depend on drug prohibition to stop drug use? Experience with alcohol prohibition shows that force is ineffective against market demand. The only rational response to the problem of drug abuse is effective and humane treatment for those who ask for it.

Virtually thousands of private drug treatment and counseling centers are doing an outstanding job in this area, and President Reagan would be well advised simply to provide moral support for their work. Like the traveler in Aesop's fable "The Wind and the Sun" who removed his cloak only when persuaded by the warming rays of the sun, the problem of drug abuse cannot be solved by the wind of force.

Lance Lamberton is former deputy director of the White House Office of Policy Information under the Reagan administration. He is now director of public relations for a private firm.

Illustration by Susan Salladé

TAXES

Save Our Shelters

BY TIMOTHY CONDON

All right all you guilt-stricken government-lovers, let's hear it with the boos and hisses. Everybody together: wail and snarl and gnash your teeth, because I'm going to talk about... *tax shelters*!

Yes, ladies and gents, there still are truly vicious criminals in the world, the kind that make you consider rethinking your heart-throbbing opposition to the death penalty. We're talking not about tax cheats—a truly awful group of criminals in their own right—but about those who take advantage of...why, the laws that Congress has passed.

Tax shelter! The very words are enough to send shivers down a hardened journalist's spine. Why, if it weren't for all those evil rich people taking advantage of all those *loopholes* (a delicious word in its own right), well then maybe we could—just maybe, in the name of all that is kind and decent in the human spirit—well, maybe we could *reduce the deficit*.

Of course, if one considered where tax shelters *come* from (namely, laws passed by Congress) and what *purpose* they serve (the "carrot" function), one might be able to couple that with a little supply-side understanding. That is to say, the more we tax things, the less we get of them (such as, under our tax system, productivity, savings, and so on). And those things that we *reduce* taxes on, we tend to get *more* of, such as—but wait.

Before I get into talking about what tax shelters shelter, I want to point out what prompted this column. In its April 16, 1984, issue, the redoubtable *Newsweek* featured a screaming cover story sporting this headline: "Tax Shelters: How Millions of Americans Beat the Tax Man." I suspected that there was an implication in that headline, and my suspicion was confirmed when I read the inside article—it was filled with dire predictions of America dissolving in a cloud of smoke because the government couldn't take enough taxes from the American people.

So what's all the bitching about? Well, oil- and gas-drilling shelters have for many years been popular. Reduce taxes on such matters and you get more oil and gas exploration and drilling—*risk-taking*. More money is drawn into such ventures. And, yes, one result is that people prevent their money from being confiscated by the government. To some people, this means that the feds didn't get what was rightfully theirs. But that attitude generally comes from those who believe the government is legitimately entitled to everything you earn or own.

But I digress. Other good tax shelters include equipment-leasing arrangements, real-estate partnerships, and some research-and-development projects. In each case, taxation is reduced on something so that we'll have more of that thing. In each case, Congress has decided to encourage certain types of behavior. The solution, for those who don't like production of equipment, buiding construction, and cancer research, is to have Congress change the laws. But let's be clear about what the sure results will be: more taxes means less of the commodity. Economist Art Laffer helped teach us that.

Do your patriotic duty and support every Abusive Tax Shelter you ever meet.

What's the point? There are several I wish to share with you all. First, there are plenty of good tax shelters strewn throughout the tax code. They are uniformly good, because they allow people to keep more of their earned wealth, and thus government is prevented from appropriating that much more of what doesn't belong to it. We should all thus encourage the proliferation of "tax shelters" as good things—the more the merrier!

Second, when the feds and their cohorts start snorting and rooting around about "abusive tax shelters," you can bet their real goal is more money for government. And where is the real money? With the middle classes, of course. You know—the people who pay the big bucks. Some of the "abusive tax shelters" that benefit this bunch include the home-mortgage-interest deduction (under attack this very season), the home-office deduction (just about destroyed a few years back, lately resurrected, and then more recently smashed again), the tax-deductible vacation home (totally destroyed, at the instigation of IRS interests, by Congress in the 1970s), the medical-insurance-premium deduction (now gone, but not forgotten by some of us), the medical-expenses deduction (recently reduced), and casualty-loss deductions (recently reduced such that most losses can't be used). And so forth.

The inevitable conclusion? Attacks on "abusive tax shelters for the rich" go hand-in-hand with more surreptitious efforts to crack down on the middle classes. And it's working. So, do your patriotic duty and support every Abusive Tax Shelter you ever meet.

Now, many of you will say, "Screw it, I don't have enough cash to get into my own Abusive Tax Shelter—why should I see that it's fed and clothed?" Well, this is why: someday you just might *have* enough to need your own Abusive Tax Shelter. And what're you going to do if all the Abusive Tax Shelters have died? What if they go the way of the snail darter?

That's why *someone* has to do *something* to save the Abusive Tax Shelter, and it starts right here, right now, *with all of us*. I'm announcing right now the formation of the International League of Democratic Peace-Loving Abusive Tax Shelters. All they want is the freedom to be themselves, to live and not have the world blown up under them. Join now, and spend some money on an Abusive Tax Shelter.

If we all band together to raise the consciousness of people who may not understand the importance of Abusive Tax Shelters—if we can see to it that only politicians truly concerned with saving Abusive Tax Shelters are elected—well, then, maybe the world has a chance after all. Let's just hope it's not too late.

Tim Condon is an attorney and tax specialist practicing in Florida.

"I'm Not Supposed to Exist"

BY PATRICK COX

When Anne Wortham entered Tuskegee Institute in 1959 to study social studies and secondary education, the civil-rights black-consciousness movement was just taking form. Martin Luther King was emerging as a leader, and all around Wortham there was the view that international humanism would solve all the world's problems and that because blacks were victims, they were morally superior to whites. But Anne Wortham turned out to be an individualist.

In 1962, she went to Ethiopia with Operation Crossroads Africa, on which the Peace Corps had been modeled. "I had culture shock encountering the extraordinary human misery," she says, "the almost disorienting openness of poverty and disease—it was like going back in time." The next year, she went as a Peace Corps teacher to Tanganyika (now part of Tanzania), partly to help in her planned graduate study. "Things began to change for me then," she says.

Wortham was beginning to have a problem with the incipient civil-rights movement, centered around its anti-white sentiment—its indictment of the white race and its embracing of all blacks. "I was also catching on to white liberals and their paternalistic world view," she recalls.

She also began to learn about Third World politics. Western intellectuals proclaimed that the Third World was morally superior to the West. Wortham says, "I was supposed to be an authority on being repressed, but I didn't know what to tell white liberals who treated me as a black instead of as Anne Wortham. It was complicated even further, because I needed their approval to make it. That's when I realized these guys really wanted me to do the jig."

In 1964, some friends handed Wortham a copy of a *Playboy* interview with novelist-philosopher Ayn Rand. She was not much impressed, but a few months later, while shopping for curios in Kampala, Uganda, she ran across Rand's novel *Atlas Shrugged* and bought it. Again, she was not overwhelmed, but she was interested in Rand's individualist philosophy. A few months later, she read another of Rand's major novels, *The Fountainhead.* The experience changed her. "I finally could justify my misgivings about the demands and expectations coming from civil-rights and peace-movement colleagues. I knew my responses were not idiosyncratic—it wasn't just that Anne was weird. I got to Africa and met myself, in an objective sense."

She began a study of individualist philosophers and economists. Her father

ANNE WORTHAM

shipped her some basic works on capitalism, and she pored over them. Her relationships with Peace Corps friends turned bad, and she asked to be sent home.

In 1965, she returned to the United States, ready to write her position on the civil-rights movement. She tried to get a job at the Ayn Rand–allied Nathaniel Branden Institute. When that didn't come through, she went to *Esquire* as an editorial researcher, the first black to work at the magazine. While there, she wrote for the liberty-minded *Freeman* and became a vocal critic of the civil-rights movement.

In 1967, Wortham went to work at NBC as a research assistant for Chet Huntley. She had decided not to go to graduate school in international relations, because she "wasn't ready to run around apologizing for America." She also wanted to put it on record that not all blacks think alike. But her experience at NBC convinced her that she "didn't have a chance in hell" of writing from her perspective at such a place.

She would work for a while at ABC and the Ford Foundation before beginning in 1974 to write "the book"— *The Other Side of Racism: A Philosophical Study of Black Race Consciousness.* When it was published by Ohio State University Press in 1981, noted critic John Chamberlain called it Wortham's declaration of independence. She did most of the writing in her leisure time, while working as research librarian at King Features Syndicate.

After writing the book, Wortham decided that she didn't want to keep saying the same things over and over, "screaming and yelling from the outside"—that is, as someone without the "proper" credentials. So she decided to pay the dues to gain legitimacy and finally went to graduate school, at Boston College, where she received her doctorate in sociology in 1982.

Wortham is now at the prestigious Kennedy School of Government at Harvard University, teaching ethnicity and public policy and political sociology. Now that she has acquired respectability, Wortham says it can still be discouraging, always answering questions about her experience as a black. She recognizes a desire, among some people, to have their doubts about civil-rights policies legitimized by blacks' criticisms of those policies.

Individualist whites, says Wortham, often place unrealistic demands on individualist blacks. "They want us to take the beachhead, for us to be called the Toms and the sell-outs," she says. "They hope that the movement will gain some ground—but who will take the abuse? You are controversial as a black individualist—a walking 'no' sign. There is a daily battering by blacks who disagree with your visibility. By most standards, I'm not supposed to exist. I don't know what the toll is, but I do know that you tend to guard your privacy—so you go home and listen to music. You know you'll catch enough hell when you release your next bombshell."

Patrick Cox is public affairs director of the Pacific Institute in San Francisco and a frequent guest columnist for USA Today.

Photograph by Joyce True

Further & More

FARM BOARD POWERS PRUNED

In Patty Newman's exposé of power abuse by the United Farm Workers and the Agricultural Labor Relations Board in California ("Harvest of Power," Sept. 1983), she noted that the ALRB's power to impose "make whole" remedies may, for growers, be "the most devastating aspect" of California's farm-labor law. When a grower is found guilty of an unfair labor practice such as "bad-faith bargaining," she explained, the ALRB can order him to give back-wages and benefits to his employees, whether they were actually working or on strike. Moreover, the pro-union ALRB can calculate the wages and benefits from the time the charge was filed against the grower until the time the grower is found guilty, often a period of many years. In the interim, workers have moved on, and the UFW can then end up with the grower's make-whole payments. The federal labor laws that govern most employers and union employees in the country do not include any make-whole provisions, Newman noted.

A California appeals court issued a decision in April that may curb some of the worst excesses of the make-whole scandal in California. The case involved eight major growers who had been found guilty of bad-faith bargaining by the ALRB and ordered to pay an estimated $25 million in back wages and damages to workers. The growers contested the board decision in court. They argued that when they broke off negotiations in 1979 with the union and failed to seek a compromise, they were not illegally bargaining in "bad faith" but were instead engaged in "hard bargaining," which is perfectly legal.

If the idea of distinguishing "hard" from "bad-faith" bargaining sounds questionable, it is. The definition of bad-faith bargaining has been "somewhat vague," as pro-UFW *Los Angeles Times* reporter Harry Bernstein conceded. But at least the court ruled that the growers hadn't violated the law and, as Bernstein noted, the decision "could set a whole new standard" for defining bad-faith bargaining.

The final chapter is not yet written. The appeals court decision could be overturned by the state supreme court, which has a liberal reputation. If the decision stands, however, Bernstein observed, "it could substantially affect hundreds of cases in the future, and dramatically modify the make-whole remedy so furiously opposed by California growers."

COMPUTING BENEFITS OF HOME SCHOOLING

Last year, REASON's article "Home Schooling: Up from Underground" (Apr.) surveyed the widespread homeschooling movement in which thousands of parents in the United States are circumventing government school authorities in order to teach children at

home. Dr. Raymond Moore of the Hewitt Research Foundation, a major source of information for REASON's article, estimates that "at least 250,000" children are now being taught at home. This estimate turned up in a recent *New York Times* feature on the progress of home schooling.

Increasingly, technology is facilitating the independence of home schoolers. As reported in the *Times*, a number of families are using home computers as a teaching tool. One 11-year-old in Connecticut uses an Apple II about four hours a day for math drill practice, reading, and other subjects and spends two more hours with books and workbook exercises. His six-year-old brother uses both the Apple and a Texas Instruments 99-4A for reading skills and has been running programs since the age of 2½.

James J. Alvino, publisher of the *Gifted Children Newsletter*, is enthusiastic about the potential for computers for talented children especially. He told the *Times* that computer work "allows them to move ahead at their own pace with virtually no restrictions."

And Christian Murphy of Altoona, Pennsylvania—a student at home—pointed out, "The computer is fun. It teaches you a lot of different things but doesn't shout at you. If you get something wrong, you just try it again; and if you're still wrong, it gives you the answer."

AND MORE

• *Appropriate technology.* A kind of low-tech version of Sam Cohen's nuclear wall for Israel ("Wall against War," March) can be found in the Sahara Desert. In 1980, the Moroccan government erected a long wall in the mineral-rich Western Sahara to hold off the 12,000-strong Polisario, a guerrilla group trying to establish an independent state in territory claimed by Morocco. Made of an 8- to 10-foot-high mount of dirt and sand, and protected by mines, barbed wire, and a 20-foot ditch, the 700-mile barrier has successfully repelled several Polisario tank assaults on the fortification, with the guerrilla forces suffering heavy losses. The Moroccan government is extending the wall even further.

• *Honk if you love dereg.* In January REASON reported on efforts to achieve transportation deregulation via the ballot box ("Alaska, Colorado: Grassroots Reform," p. 40). In Colorado, the deregulation campaign has won the endorsement of several key legislators from both major parties. The campaign aims to put an initiative on the November ballot, but it has already achieved a victory by indirection, according to Lori Massie of Coloradans for Free Enterprise. In April, worried state officials enacted legislation that partially deregulates household movers in Colorado (four similar bills died in the legislature last year). "Our campaign has changed slightly as a result. We're now going after different constituencies—cab companies, jitneys, other kinds of ground transportation," Massie noted. "We need to finish the job." Meanwhile, the Alaska initiative to deregulate transportation and abolish the state's Transportation Commission has officially qualified for the ballot.

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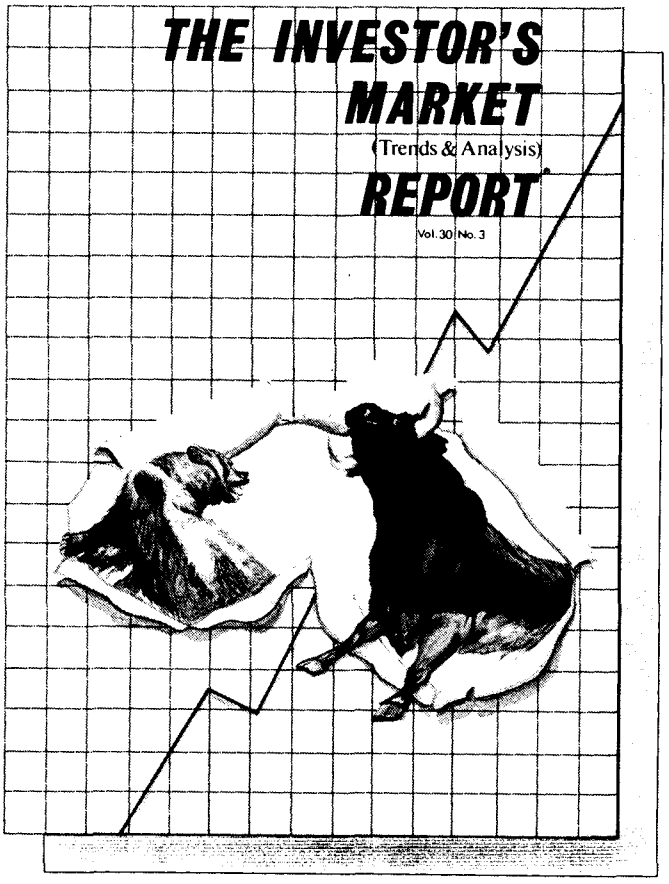

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Econ 101

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